

VERBATIM <sup>1</sup>RECORD OF TRIAL <sup>2</sup>

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

Headquarters and  
Headquarters Company,  
United States Army Garrison  
(Unit/Command Name)

(Social Security Number)

U.S. Army

(Branch of Service)

PFC/E-3

(Rank)

Fort Myer, VA 22211

(Station or Ship)

By

GENERALCOURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

(Place or Places of Trial)

on

see below

(Date or Dates of Trial)

## Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012, 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012, 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012, 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013, 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013, 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013, 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013, 16 August 2013, and 19-21 August 2013.

<sup>1</sup> Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

<sup>2</sup> See inside back cover for instructions as to preparation and arrangement.

1 billet was, what my responsibilities were as a programs chief -- as  
2 his counselor. I explained to him I would be his counselor as well  
3 as the programs chief while I was there. I explained to him my role  
4 as his counselor, my role as the programs chief, what he could expect  
5 from me, what I expected from him. We talked about basic rules of  
6 the facility. Then we sat down -- we went through the 27-10 -- the  
7 initial -- not the initial classification but the background summary.

8 Q. The in-processing paperwork?

9 A. Yes, sir. Went through that -- that's what he filled out  
10 himself. I reviewed that prior to actually sitting down and talking  
11 with him. Some of the stuff we breezed through pretty quickly -- his  
12 name and whatnot. I looked for key points I actually wanted to  
13 discuss with him from that paperwork -- stuff that he wrote down --  
14 clarification or just talking about things. Example; the ----

15 Q. What were some of those key points?

16 A. The biggest one, sir, was -- where it says have you  
17 considered suicide or are you suicidal -- I can't remember exactly  
18 how the question's worded -- but the back there, sir, he checked yes.  
19 And then there's a remarks section and he wrote "always planning,  
20 never acting." That was a big one for me. I think he also wrote a  
21 couple things about having a -- being diagnosed with ADD, I think an  
22 anxiety disorder -- I can't remember exactly what was written on that  
23 block, but something in that block as well, sir.

1 Q. Did you ask him anything about the -- you may have seen in  
2 the transfer documents from Kuwait?

3 A. Yes, sir.

4 Q. What did you ask him?

5 A. In the documents -- one of the incidents reports, it talked  
6 about an incident that happened out in the recreation yard where he  
7 had some kind of a panic attack or -- or when and started running  
8 around in circles.

9 Q. The recreation yard in Kuwait?

10 A. Yes, sir. And -- I guess -- at one point he -- he laid  
11 down on the ground and became nonresponsive to the point where --  
12 from the word picture I got they had to actually pick him up and  
13 bring him back to his cell or however he was housed there. And the  
14 other one was an incident report where they actually found a noose  
15 made out of a bed sheet inside his cell.

16 Q. And did you ask PFC Manning about noose?

17 A. Yes, sir.

18 Q. And what did he say?

19 A. I asked him -- I'm like, okay, so what's going on with this  
20 noose that's made out of the bed sheet inside his cell? When I asked  
21 him that he a -- he kind of looked at me like he didn't understand  
22 what I was talking about. And he said I didn't make a noose out of a  
23 bed sheet. I made it out of sandbag ties. And ----

1 Q. What conclusion did you draw from that?

2 A. Well, at that point -- I didn't say this but what was  
3 running through my mind was -- nobody -- nobody confuses a bed sheet  
4 and sandbag ties -- they're pretty -- two distinctly different items.  
5 So I thought, well, okay, he must have made two.

6 Q. And did you ask him about his statement about always  
7 planning and never acting on suicide?

8 A. Yes, sir.

9 Q. And what did he say?

10 A. I asked him -- I'm like, what do you mean always planning,  
11 never acting -- what's that mean? And he essentially said that it  
12 means what it says, you know, like -- he's always just make plans but  
13 has never actually attempted -- never acted -- never attempted  
14 suicide; just made plans.

15 Q. Did he mention anything about being coerced to make that  
16 statement on the paperwork?

17 A. No, sir.

18 Q. He deny making the statement?

19 A. I didn't ask him if -- I didn't ask him if he was forced to  
20 make the statement or -- I mean he acknowledge that he wrote the  
21 statement.

22 Q. Let's talk a little bit about your relationship as a  
23 counselor in general with PFC Manning. What were you expected to do?



1           A.    I had to meet -- by order I have to meet with him once a  
2 week -- at a minimum once a week and address his concerns that were  
3 there. As a counselor my role ultimately is -- assist him through  
4 the confinement process, help him out with whatever he needs -- needs  
5 and concerns he has as long as I actually can help him with those  
6 needs and concerns, serve as a liaison between him and his legal team  
7 -- outside agencies -- his legal team, his command -- that's usually  
8 the main stays; the command and legal teams. Serve as liaison  
9 between -- if he needs to speak with them, you know, I get him on the  
10 phone with them or if something's needed -- needed from the command.  
11 Example -- a command visit. If the command visit doesn't show up, I  
12 contact the command, hey, let them know their responsibility. Serve  
13 as an advocate for him really because -- because of the position  
14 they're in, you know, in confinement, they can't go address needs  
15 that you and I can. I mean -- just 'cause they're in confinement.  
16 So at that point I would help them address those needs as best as I  
17 could within -- within reason what I can do.

18           Q.    So as his advocate what is your primary goal?

19           A.    To address the needs that it's met, sir -- to address his  
20 needs as best I can.

21           Q.    So you're concerned with keeping him safe?

22           A.    Yes, sir.

23           Q.    How would you do that?

1           A.   Well, first, if he felt threatened from the prisoner  
2 population then I could talk to him about protective custody and tell  
3 - explain that to him. Ask them if they, you know, want to go into  
4 protective custody. If they're harm from -- if they're in danger  
5 from themselves, you know, then we would -- you know, we would  
6 protect them from themselves, you know, if -- depending on how -- how  
7 well or how much of a threat we consider them to be to themselves.  
8 And if it was a significant threat we'd place them on suicide risk.  
9 If it was a heightened risk, then prevention of injury, sir.

10          Q.   We can talk a little about that in a few minutes. But were  
11 you his counselor for your -- for his entire time at Quantico?

12          A.   Yes, sir.

13          Q.   And how well did you get to know PFC Manning?

14          A.   Fairly -- fairly well, sir. I mean I've gotten to know  
15 other prisoners better. I mean I'd say fairly well where I was  
16 comfortable with him. I -- I could -- I -- depending on how he spoke  
17 to me I kind of knew exactly what kind of week it was going to be.  
18 Sometimes ----

19          Q.   What do you mean by that?

20          A.   At first, sir -- outside of the initial interview -- during  
21 the initial interview he spoke to me fairly well. He answered all my  
22 questions fairly -- fairly directly. He didn't elaborate on a whole  
23 lot. After that when I -- I did a walk through special quarters or

1 bring him down to my office, any questions I asked him, he was very  
2 short, direct answers; yes, Gunnery Sergeant. No, Gunnery Sergeant.  
3 You know, quick -- short to the point answering my questions -- yes  
4 and no as much as possible. To the point where I knew that -- it  
5 seemed like just hurry up and answer your question -- ask a question  
6 so I can answer and be done with it and move on.

7 Q. While you were PFC Manning's counselor did you find the  
8 amount of communication change?

9 A. Yes, sir, over time.

10 Q. How so?

11 A. Probably maybe three or four months after receiving him --  
12 probably November timeframe -- being November timeframe, I believe,  
13 he started talking to me more -- actually started engaging in actual  
14 conversation outside of just quick direct answers. Started talking -  
15 - pretty regular -- it developed -- once he started talking to me,  
16 week to week he -- he'd speak to me a little bit more each week --  
17 not every time I talked to him -- sometimes with quick answers, but  
18 it was improving. After about seven or eight weeks of that then he  
19 stopped talking to me again. It was pretty abrupt.

20 Q. Was that a pattern that continued?

21 A. Yes, sir. After -- once he stopped speaking to me, again,  
22 the second time -- that -- that went on for three or four weeks if I  
23 remember right, sir. Then he started speaking to me again, but that

1 was also very -- very brief; maybe two weeks. Then once he stopped  
2 talking to me again I think that was it, sir.

3 Q. And did you ask him -- ask him about the level of  
4 communication?

5 A. Yes, sir. I mean, I explained to him, you know, trying to  
6 communication -- just trying to talk -- we need to talk. You know, I  
7 didn't ask him, hey, why aren't you talking to me anymore? I don't  
8 think I've ever asked him like that, sir.

9 Q. But did you explain the importance of communication?

10 A. Yes, sir.

11 Q. And why was communication with his counselor important?

12 A. Sir, if I -- if I can't communicate with somebody I can't -  
13 - especially somebody that's on a suicide watch or a prevention of  
14 injury status. If they're not talking to me I can't get a grasp of  
15 their -- their mental state like how they're doing, sir.

16 Q. Does it make it harder to see improvement?

17 A. Yes, sir.

18 Q. What about a shy detainee?

19 A. I'm sorry, sir?

20 Q. What about a shy detainee who's not real open and not going  
21 to talk a lot?

22 A. You can usually gauge if they're just not -- if they're  
23 shy. I've never had a detainee that was so shy that he couldn't talk

1 for weeks and weeks especially about anything. I mean -- I mean,  
2 usually it's not hard to find at least on subject that somebody will  
3 talk about. It's pretty -- not hard to do that. I mean I went over  
4 tons of different things trying to start discussions with him, you  
5 know, usually to no avail. There was a couple of things that we  
6 talked to about.

7 Q. What kind of things would you ask him about as far as  
8 discussion?

9 A. Sir, I tried to talk to him about military, sports -- he  
10 lived in the UK. I talked to him about what it was like to live in  
11 the UK. One time we talked about penny stocks, computers -- he  
12 talked to me about computers a little bit. That was kind of a hard  
13 discussion because I'm not really not knowledgeable about computers  
14 myself -- but it was a hard discussion. Sir, I talked to him about  
15 Bigfoot one time. Asked him if he believed in Bigfoot? I mean  
16 anything. We got to the point where I was grasping at anything I can  
17 get him to speak about.

18 Q. Did you ask him about fishing?

19 A. Yes, sir. In the UK -- I asked him if he went fishing. He  
20 said he didn't -- like immediately -- he was like oh, no. Never went  
21 fishing. Sports -- video games, you know, I asked him what kind of  
22 video games he played. So that one I remember -- this really -- I  
23 couldn't understand his answer; he said he never played video games,

1 but he played with video games. And I really didn't understand what  
2 he meant by that until he said he actually went and looked at the  
3 program that made the video game -- what the video game is and did  
4 stuff with that. That's one of those conversations where once he  
5 started talking I -- I couldn't have an intelligent conversation  
6 because I didn't know.

7 Q. Would you say you exhausted every possibility you  
8 considered?

9 A. Yes, sir.

10 Q. What sports did you talk about with PFC Manning?

11 A. Tried to talk about any sports. Eventually he did -- he  
12 told me he liked to watch college basketball.

13 Q. How much would you talk about college basketball with him?

14 A. Once I -- once I found out he liked college basketball --  
15 and actually he is a Syracuse Orangeman fan just because -- I think  
16 because he was stationed up at Fort Drum, which -- I thought that was  
17 perfect because I'm an Orangeman fan myself. So I thought we'd talk  
18 about that. And he talked about it quite often. The problem was  
19 when he started talking about college basketball it was really early  
20 in the college season, and he said he didn't follow as much as he --  
21 I'm not sure -- you know, purposely or not, but he didn't talk about  
22 it as much after he realized that it was something, hey, we can talk  
23 about this. He told me he didn't really follow it during the regular

1 season until the tournament.

2 Q. Okay. And based on all of your interaction with PFC  
3 Manning, would you change recommendations that you would make with  
4 regard --

5 A. Yes, sir.

6 Q. -- to his custody and classification?

7 A. Yes, sir.

8 Q. And what recom -- what changes did you recommend?

9 A. Once -- once he started talking to me -- not the first time  
10 but maybe a week or two later -- at that point -- up until then his  
11 recreation call time -- it was designated for 20 minutes outside. I  
12 went to the CO and said, hey, sir, you know, what do you think about  
13 making it an hour long, which we did.

14 Q. Why did you recommend an hour at that point?

15 A. Because at that point I wasn't -- I wasn't ready to make a  
16 recommendation of changing his custody and classification, however, I  
17 -- I wanted to see some kind of loosening -- see how he reacts to  
18 loosening his -- you know, his situation. So the recreation call --  
19 correspondence time, which is where -- their time designated to write  
20 letters, you know, read and write letters. That was originally one  
21 hour, and then I recommended, hey, why don't we move it to two hours  
22 even though at that point he wasn't writing letters. I think he sent  
23 maybe one or two out. But -- and he didn't really receive a lot of

1 mail either, but I still wanted -- let's open it up. Maybe he's not  
2 writing letters because he's only got an hour time, and he doesn't  
3 feel like it's worth the time. Let's open up. Let's see what  
4 happens.

5 Q. Would you call it an intermediate step on the way to  
6 potentially removing PFC Manning from POI?

7 A. Yes, sir. Just baby steps along the way.

8 Q. Let's talk a little bit about staff reports now, Master  
9 Sergeant. Did you receive staff reports about PFC Manning's  
10 behavior?

11 A. Yes, sir.

12 Q. And what kind of things would you hear about?

13 A. He -- the very -- the very first one that I remember  
14 specifically was -- I was outside and I heard a group of guys --  
15 three or four guards talking. And I don't remember what they said --  
16 he -- they said he did something. I don't remember what it was they  
17 said.

18 Q. But it caught your attention?

19 A. But it caught my attention. And I asked them, like hey,  
20 what do you mean he does -- whatever they said? And they -- well,  
21 Gunnery Sergeant, he does weird stuff like that all the time. I was  
22 like, what do you mean? So they started telling me -- the one thing  
23 that really stuck with me -- they said he was licking his bars at



1 nighttime -- the bars to the -- at the front of his cell at  
2 nighttime. And they listed off a few different things. That was the  
3 one specific one that I remembered at the time. And -- I definitely  
4 -- I asked them -- I go -- you know, why don't know about this? How  
5 come this is the first I've heard of these things? So at this point  
6 it's probably October, I think. I mean, he's been there for quite a  
7 few weeks -- I'm like why don't I know about this? And ----

8 Q. So what did you do in response?

9 A. I went straight to the CO and said, hey, sir, I've got a  
10 little -- got a little issue here. You know, and I told them what  
11 the guards had told me. And at that point the ultimate -- the main  
12 thing that came out of that conversation -- I don't remember if it  
13 was immediate or maybe a week later -- and he wasn't on suicide watch  
14 at this time, but Chief Warrant Officer Averhart directed, hey,  
15 whenever he does something -- any kind of odd behavior like that --  
16 anything that's just not normal that you see of a normal prisoner, he  
17 wanted it annotated in a suicide watch logbook. Even though he  
18 wasn't on suicide watch, that was just the logbook at that time that  
19 had existed where we wrote these things down because those things  
20 were something that we'd usually see out of somebody that's on  
21 suicide watch. That lasted maybe a week or two before another  
22 smaller logbook was just generated just for Manning just to annotate  
23 these things. That way they didn't have to write an incident report

1 every time there was because -- I mean, they may be generating a  
2 bunch of incident reports every day, so it was just put in a logbook  
3 -- it was memorialized in log book.

4 Q. Were those events documented somewhere else?

5 A. When I did the weekly progress report on Manning, I would  
6 take that logbook and annotate them in there, sir.

7 Q. Do you mean in CORMIS?

8 A. In CORMIS -- the weekly progress report I did and the  
9 CORMIS notes -- they covered the same thing, sir. So the weekly  
10 progress report that got sent up to the chain of command to -- I'm  
11 not sure exactly it went -- and then also in CORMIS -- my counseling  
12 notes.

13 Q. Did staff tell you about PFC Manning flexing his muscles?

14 A. Yes, sir.

15 Q. And did you talk to PFC Manning about the behavior that was  
16 reported to you?

17 A. Not every time they told me a specific incident -- hey,  
18 Manning was flexing his muscles. I never went down and said, hey,  
19 Manning, why are you flexing your muscles. But he just -- trend of  
20 different behavior. I'd ask him, hey, what's going with this? And  
21 he'd say, oh, I'm just.

22 Q. Did PFC Manning ever tell you he was doing resistance  
23 training?

1           A.    I don't remember him specifically saying I was doing  
2 resistance training. He may have. But I don't remember him saying  
3 that.

4           Q.    And his prior reports about PFC Manning, would you talk to  
5 Captain Hocter?

6           A.    Yes, sir.

7           Q.    How often?

8           A.    Let me rephrase that, sir. I tried to talk to him. I did  
9 talk to him a couple of times but that -- that was rare, sir. I  
10 mean, that was difficult.

11          Q.    And how often would you talk to Colonel Malone?

12          A.    Once -- once Colonel Malone came on deck, I talked to him  
13 more. I met -- when he first got there it was -- I think maybe just  
14 to understand that, hey, we want to talk to him when he got to the  
15 facility and before he left the facility. But once he understood  
16 that -- it was -- it was the third time he came there, sir -- as long  
17 as I was on deck.

18          Q.    And how often would you talk to Lieutenant Colonel Russell?

19          A.    Lieutenant Colonel Russell -- we talked to -- the first  
20 time I met him was actually when Colonel Malone brought him to the  
21 brig -- introduced him before he was actually doing his duties. And  
22 that's the first time I talked to him. And from there -- it was -- I  
23 talked to him probably every time he was there. If he was in the

1 building and I was in the building that was the time we talked.

2 Q. And how are complaints by detainees given to you handled?

3 A. If they -- their previous processes is a DD 510, it's a  
4 chit. If they -- if they have a concern they put it down on the  
5 chit. They can tell me verbally as I walk through special quarters  
6 and -- you know, I'm walking down -- hey, how you doing -- this is  
7 with everybody. If they have a concern they'd talk to me. If it's  
8 something real minor and I can squash it right then and there, I  
9 would. If it's something that's going to -- takes a little bit of  
10 leg work on or whatever or I just can't squash it right then and  
11 there, I'll tell them to put it on a 510 and send it to me.

12 Q. And what was your process for dealing with those?

13 A. Once I received the 510 -- once I got them I put them in my  
14 inbox on my desk and -- you know, my inbox was -- wasn't designed for  
15 510s, it was -- it was things I was doing that day. And I'd put them  
16 in my box, and then once I got to them I -- I addressed the chit.

17 Q. Was that your action box for the day?

18 A. I'm sorry, sir.

19 Q. Was that your action box for the day?

20 A. Yes, sir.

21 Q. Did you deal with them that day?

22 A. Yes, sir. Unless I got pulled out for something, but that  
23 was -- yes, sir.

1 Q. Have you ever lost a chit?

2 A. No, sir.

3 Q. Did PFC Manning give you a chit in December 2010?

4 A. Like hand me a chit, sir?

5 Q. Yes.

6 A. No, sir, I don't remember him ever handing me a chit.

7 Q. Did you discuss with PFC Manning what could be done to get  
8 off of prevention of injury?

9 A. Yes, sir.

10 Q. And what did you tell him?

11 A. I told him ultimately the status you're on is because we  
12 feel that, you know, there's a heightened risk that you may harm  
13 yourself. And the main thing -- the main thing he needed to do -- it  
14 wasn't an action -- I remember he asked me one time, what do I have  
15 to do to get off POI status? I'm like there's -- you don't ----

16 Q. Do you remember when that was?

17 A. December or January timeframe, sir. I -- he probably  
18 actually asked me twice. I remember -- I remember one conversation  
19 specifically when he's -- what do I have to do to come off of  
20 prevention of injury? And I told him like you -- you don't do  
21 something. You don't -- you don't go do a good deed and come off of  
22 POI because POI is not -- it's not a disciplinary status. What you  
23 need to do is convince me that you are not a threat to yourself.

1 Make me believe that if I recommend you to come off -- if I recommend  
2 you to come off POI I have to be able to trust that. I have to be  
3 able to justify it to myself. You have to convince me that you're  
4 not a threat to yourself. Talk to me. Communicate. Just show me  
5 that you're not a risk. You've got to convince me. And it's not --  
6 there's not an act that does that.

7 Q. Would you describe that as a sense of trust?

8 A. Yes, sir.

9 Q. And what did PFC Manning say in response to this?

10 A. I don't really remember his response, sir.

11 Q. Did he ask for clarification?

12 A. If he did, sir, I don't remember.

13 Q. How talkative was PFC Manning compared to other detainees?

14 A. Next to none, sir. I mean other detainees -- I can only  
15 remember one other prisoner that I had trouble communicating with --  
16 probably more trouble communicating with him, but nowhere near as  
17 long sustained duration, sir.

18 Q. And why did you have trouble communicating with that other  
19 pretrial prisoner?

20 A. Sir, that guy was confined on death row before I was in the  
21 Marine Corps.

22 Q. Post-trial.

23 A. He -- he was on death row for -- when I met him probably 10

1 plus years. So he was probably 10 or 12 years older than me. And,  
2 you know, at that point -- he's been -- he was in jail probably 15  
3 years at the time -- probably death row about 10 at that point. And,  
4 you know, prisoners -- definitely -- he's not going to trust me right  
5 away. He don't know me from a can of paint. So he's not going to --  
6 to him trust is a big -- big deal. He was from Chicago -- him and I  
7 actually -- grew up similarly. You know, so I -- I knew exactly  
8 where he was coming from. And on top of that, spending 10 years on  
9 death row, sir, you're not going to trust anybody until you show them  
10 that they can trust you. And I remember exactly how I got him to  
11 trust me, too. But ----

12 Q. How did you get him to trust you?

13 A. When I talked to him I had the guards take the restraints  
14 off.

15 Q. And how long did it take for you to establish a sense of  
16 trust with him?

17 A. Four or five weeks, sir. During that four or five weeks he  
18 wouldn't talk to me at all.

19 Q. Do you ever tell PFC Manning that Captain Hocter was  
20 keeping him on POI after Captain Hocter recommended taking PFC  
21 Manning off POI?

22 A. I'm sorry, sir.

23 Q. Did you ever tell PFC Manning that Captain Hocter was

1 recommending that PFC Manning be kept on prevention of injury even  
2 though Captain Hocter was not recommending -- making that  
3 recommendation?

4 A. No, sir.

5 Q. PFC Manning's confinement attracted some bit of public  
6 attention.

7 A. Yes, sir.

8 Q. Did the brig receive phone calls randomly?

9 A. It did, sir.

10 Q. Did the brig receive packages randomly?

11 A. Yes, sir.

12 Q. And would you have to draft up statements in response to  
13 these events?

14 A. Yes, sir.

15 Q. Do you remember on 15 December 2010, drafting an email  
16 about rejecting a package because it was sent with no prior request  
17 or knowledge, and there's no preapproval by the Brig OIC?

18 A. Yes, sir.

19 Q. Do you remember adding in the phrase "And we felt like being  
20 dicks"?

21 A. Yes, sir.

22 Q. And why did you write that?

23 A. I sent that a -- the Brig Supervisor, Master Sergeant



1 Papakie and -- honestly, sir, I was just joking around with him.  
2 Screwing with him -- get a rise out of him.

3 Q. Are you normally joking around when you do your job?

4 A. Yes, sir, I joke with him -- I have a good working  
5 relationship with him.

6 Q. But do you consider yourself to be a professional?

7 A. Yes, sir.

8 Q. Let's talk a little bit about C&A boards. What is the  
9 purpose of suicide risk?

10 A. To make sure that that person that's on suicide risk  
11 doesn't harm himself, sir.

12 Q. And when is suicide risk appropriate from your perspective?

13 A. If they have a -- well, first, if they make an attempt --  
14 if they make a gesture -- a serious gesture, serious statement, they  
15 make any statement they're saying that, hey, I'm going to hurt myself  
16 -- gestures, ideations, attempts.

17 Q. And what's the purpose of prevention of injury?

18 A. To keep that person from hurting themselves -- to prevent  
19 them from injuring themselves, sir, if you will. It's a -- it's kind  
20 of a less -- lesser form of suicide risk, sir. Not as strict.

21 Q. And when is POI appropriate when suicide risk is not?

22 A. If somebody may have made a statement or a gesture, but not  
23 something as serious as something that that would get somebody put on

1 suicide watch, but at the same time we need a higher sense of  
2 supervision over him -- he's more of a risk than that of the average  
3 general population prisoners, sir.

4 Q. Is it meant to be punitive; prevention of injury?

5 A. No, sir.

6 Q. Is it used for disciplinary purposes?

7 A. No, sir.

8 Q. Did you use it for disciplinary purposes?

9 A. No, sir.

10 Q. Can disciplinary events of misbehavior be a factor in  
11 determining prevention of injury?

12 A. It could be, sir. If they're -- if I have a general  
13 population prisoner and he has a disciplinary issue, that's not going  
14 to land him on prevention of injury status unless that infraction  
15 involves them hurting themselves. But if I have somebody on POI and  
16 they do have disciplinary infractions, that may -- if -- if this  
17 person's conduct and behavior is a certain way for so long but then -  
18 - and he starts having the -- and I'm not going to say just one  
19 disciplinary issue, but it becomes a trend and I'm seeing a change in  
20 his behavior. And that's a cause for concern.

21 Q. Why would prevention of injury be appropriate for a  
22 detainee who's polite and courteous?

23 A. Because being polite and courteous -- people who may

1 potentially hurt themselves are polite and courteous, sir, that  
2 doesn't -- because I'm polite and courteous doesn't mean I'm not --  
3 I'm not going to hurt myself.

4 Q. And is that why communication is important?

5 A. Yes, sir. I need to be able to gauge someone's mental  
6 state, sir -- their personality -- where -- where are they at in  
7 their head.

8 Q. Would every disciplinary infraction at the brig be  
9 documented?

10 A. No, sir.

11 Q. Why not?

12 A. If it's something minor, sir, we just correct it with an on  
13 the spot verbal counseling, sir. We'd be generating tons of  
14 paperwork if we wrote down every violation of the rules and reg's.  
15 Something's just are a simple counseling.

16 Q. Let's talk about Special Quarters 2 now. Do you remember  
17 Special Quarters 2?

18 A. Yes, sir.

19 Q. What were Special -- what were Special Quarters 2?

20 A. Special Quarters 2 had -- we rarely had anybody housed in  
21 there. That was -- if we had somebody who was on disciplinary  
22 segregation -- not even a first time disciplinary segregation, but  
23 somebody who was a repeated trouble around the population and we need

1 to segregate this guy from the rest of the population because his  
2 conduct -- or his misconduct was now affecting the other prisoners  
3 that were living there, we had to separate him. And then we'd put  
4 him in Special Quarters 2.

5 Q. Are you talking about violent -- violent behavior?

6 A. Violent or just repeated infractions of the same rules to  
7 where it became a disturbance.

8 Q. But it was for disciplinary purposes?

9 A. Yes, sir.

10 Q. And what kind of acts would land someone in Special  
11 Quarters 2?

12 A. An assault would. But any kind of disciplinary ----

13 Q. And assault while in confinement, outside of confinement?

14 A. While in confinement, sir. If they're there -- if they're  
15 confined for a violation of Article 128, whether pre or post-trial,  
16 that's not going to get them put inside Special Quarters 2, you know,  
17 because that's -- that's a charge. I don't really care how somebody  
18 acted -- you know, what they did to get themselves confined. I care  
19 about how they act in confinement.

20 Q. And was PFC Manning ever in Special Quarters 2?

21 A. No, sir.

22 Q. Let's talk about what it actually looks like. Can you  
23 describe it for me?

1           A.    If I walked into Special Quarters 2 to the immediate right  
2 was just a solid bulkhead. On my left ----  
3           Q.    Can you please tell the court what a bulkhead is?  
4           A.    A wall, sir.  
5           Q.    Thank you.  
6           A.    A solid wall. And then on the left, that's where the cells  
7 were. I remember there was six cells. All the cells were identical.  
8 If I wanted to walk into a cell there was a steel gate with a small  
9 window.  
10          Q.    About how -- about how large?  
11          A.    Maybe 10 inches -- 10 to 12 inches by 10 to 12 inches, sir.  
12          Q.    I want to talk a little bit about this. So I'm standing in  
13 front of a Special Quarters 2 cell. To walk into the cell what do I  
14 have to pass through?  
15          A.    You have to go through that steel hatch with the window.  
16          Q.    Is it solid?  
17          A.    Yes, sir, besides --  
18          Q.    Except for the --  
19          A.    -- besides -- besides my window.  
20          Q.    -- except for the small window?  
21          A.    Yes, sir.  
22          Q.    So it's almost like a fourth wall with a small window?  
23          A.    Yes, sir.

1 Q. All right, then I pass through that then what's next?

2 A. Then you're in a pretty small area and then you have to go

3 through a gate. Once you go through that ----

4 Q. You mean -- you mean like bars?

5 A. Yes, sir, a barred -- a barred hatch door. Once you go

6 through that barred door then you're in the cell. So you had to go

7 through -- essentially you had to go through two doors, sir.

8 Q. Would you say Special Quarters 2 then was like the quarters

9 in Special Quarter 1 except with a solid door in front of it with a

10 small window?

11 A. The barred cell door was a different style, but -- yes,

12 sir.

13 Q. And was there a lot of light in Special -- within the cell

14 in Special Quarters 2?

15 A. Just regular luminescent light, sir. But, yes, sir.

16 Q. Natural light?

17 A. Natural light, sir? No, sir. If I'm in a cell inside

18 Special Quarter 2 I'm not getting any natural light.

19 Q. And there were windows in Special Quarters 1?

20 A. Yes, sir.

21 Q. And how often were prisoners put in Special Quarters 2

22 during your time at Quantico?

23 A. We had three prisoners in there, but they were in there

1 because they got transferred to us from the Federal Bureau of  
2 Prisons. And they were there to testify at the rehearing for the  
3 prisoner that was on death row. Because they were Federal Bureau of  
4 Prisons -- they've been discharged from the military and -- they were  
5 civilians. So we put them in there, not as a disciplinary measure --  
6 because we had to separate them from the actual confined service  
7 members. Aside from that, I can only think of two prisoners that  
8 were put in Special Quarters 2 for disciplinary reasons.

9 Q. So if a prisoner was put in Special Quarters 2 you would  
10 have been more isolated?

11 A. Yes, sir.

12 Q. Let's go back to classification and assignment boards.  
13 What's the purpose of a C&A board?

14 A. To review or initially review a status that the DBS changed  
15 somebody's status or a new confinement. And then also if somebody  
16 was in a status, we had to review those statuses every so often.  
17 Depending on what the status is depending on the -- how long -- how  
18 often we did it.

19 Q. And how does that C&A board process protect a detainee?

20 A. It keeps that prisoner from being classified incorrectly,  
21 sir.

22 Q. Are those determinations and recommendations -- are those  
23 recommendations made by a neutral party?

1       A.    Yes, sir.  There's three people on the board, and it goes  
2  to the CO, sir.

3       Q.    And who are the three people that sit on a C&A board?

4       A.    It varies, sir.  While I was the programs chief, I was on -  
5  - if I was on deck -- if I was there that day, I was on it.  Then the  
6  other ----

7       Q.    And why would you be on it?

8       A.    I was the programs chief, sir.

9       Q.    Then the other two -- we almost always tried to make them  
10 two other staff NCOs.  It didn't always happen.  I'd say the majority  
11 of the time it was two other staff NCOs.  And that could be -- it  
12 wasn't anybody specific.  It may have been the operations chief, the  
13 admin' chief, another counselor -- Staff Sergeant Jordan, the Army  
14 Liaison, was on there quite a bit -- just another staff NCO that  
15 worked for the brig.  I would use somebody that wasn't a staff NCO if  
16 I didn't have a third staff NCO.

17      Q.    And why would you have staff NCO on the C&A board?

18      A.    Just rank and experience, sir.  I mean I wouldn't have a  
19 PFC on there.

20      Q.    And who appointed members of the C&A board?

21      A.    The Commanding Officer.  I mean it was -- there was an  
22 appointment for members of the C&A board, not by person if I remember  
23 correctly, but by billet in that -- and that appointment letter



1 covered ----

2 Q. And what kind of factors would members of a C&A board  
3 consider?

4 A. A person's history -- all ----

5 Q. When you say a person's history what do you mean?

6 A. History of anything, sir. All the way from his family  
7 history, his service history, his -- any -- criminal history -- any  
8 kind of history to him prior to receiving confinement -- his conduct  
9 while he's in confinement, his behavior while he was in confinement,  
10 interaction with the staff, other -- other -- the staff's feelings on  
11 their interaction with him if they thought -- the psych' -- if it was  
12 somebody that -- psych' review that they need POIs or SRs just like  
13 talk to him.

14 Q. Would you consider a hard card?

15 A. Yes, sir, just because the hard card listed any kind of  
16 infractions he would have had. It had other things, but more so  
17 that's where he would write a -- it was basically a log of -- if  
18 somebody got a DR or an observation report it would get logged down  
19 there that way I didn't have to go look through somebody's book. It  
20 was ----

21 Q. By "DR" you mean "disciplinary report"?

22 A. Yes, sir.

23 Q. What about the seriousness of charges?

1           A.    Yes, sir.  For the -- on the hard card or the C&A board,  
2  sir?

3           Q.    C&A board.

4           A.    Yes, sir.

5           Q.    What about mental health evaluations?

6           A.    Yes, sir.

7           Q.    How were they considered?

8           A.    We'd see what the psych's recommendation was.  In a perfect  
9  world we'd talk to the psych' to see how he came to that  
10 recommendation.  If we couldn't talk to him -- if he wasn't there,  
11 then we would read why he made his ultimate recommendation.

12          Q.    So they were given weight?

13          A.    Yes, sir.

14          Q.    Before the C&A board would meet -- from January -- from  
15 after -- from August until January -- from August 2010 until January  
16 2011 where were the C&A boards documented?

17          A.    They were memorialized on a daily change roster, which is a  
18 roster of everybody that was reviewed on the C&A board that day or  
19 the DA; disciplinary adjustment board.

20          Q.    And where would that -- where would have been documented?

21          A.    Ultimately inside CORMIS.  There was a note that was put  
22 inside CORMIS saying, you know, this guy was reviewed on this date.  
23 He did or did not want to appear before the board.  This was the

1 recommendation. He was reviewed by the psychologist -- we'd probably  
2 put a sentence in there that said that, sir.

3 Q. So they were documented in CORMIS before January 2011?

4 A. Yes, sir.

5 Q. After January 2011, a form -- brig form was used?

6 A. Yes, sir.

7 Q. When you sat on the board would you fill out the boxes on  
8 the form?

9 A. Yes, sir.

10 Q. And why would you do that?

11 A. To prepare the document, sir. I mean that -- usually the  
12 document that -- those boxes you're talking about one would have --  
13 one would be assaultive or disruptive behavior, poor -- poor family  
14 relationships -- I -- I forget what the other boxes were, sir. But I  
15 would fill them out -- example; poor family relationships, that  
16 doesn't change week to week, sir. So that's -- I mean if it's there  
17 it's there, and that's -- we don't need to fill it out after the C&A  
18 board or during the C&A board because filling it out, you know,  
19 whether I do it before I get everybody together or while everybody's  
20 sitting there, it doesn't change anything.

21 Q. Were you filling them out because you were the counselor or  
22 because you were the senior member?

23 A. For -- for Manning in particular, sir, because I was the

1 counselor.

2 Q. Were prisoners able to attend C&A boards?

3 A. Yes, sir.

4 Q. And would a prisoner know he could attend a C&A board?

5 A. Yes, sir.

6 Q. And how would he know?

7 A. First, there it was written in the prisoners' rules and  
8 regulations. But if somebody was going to be reviewed by the C&A  
9 board that day, the counselor that generated the DCR would inform  
10 those prisoners that were being reviewed that day, sir.

11 Q. Was that taught as part of the indoctrination process?

12 A. Yes, sir. The -- I don't remember if it was on the indoc'  
13 test or not, but it was in the prisoners' rules and reg's. And the  
14 C&A board was one of the things that were taught.

15 Q. Would PFC Manning have been told that he was able to attend  
16 C&A boards?

17 A. Yes, sir.

18 Q. And how often would he have been told?

19 A. The day that he was getting reviewed by the C&A board, sir.

20 Q. So every week?

21 A. Yes, sir.

22 Q. How often did you sit on C&A boards?

23 A. I would say 99 percent of the time, sir. The only time I

1 wouldn't be on a C&A board is if I wasn't there that day.

2 Q. So during your time at -- your entire time at Quantico for  
3 99 percent of the boards you sat on them?

4 A. No, sir -- while I was the programs chief.

5 Q. So that's programs chief. And how long were you programs  
6 chief at Quantico?

7 A. From December 2009 until I left Quantico in September 2011.  
8 So, close to two years.

9 Q. So what's the process for a C&A board? How does it start?

10 A. Once the -- once all the C&A sheets are completed -- first  
11 off, you want to make sure all the information on there's accurate as  
12 far as, you know, name spelling, the resident control number; that's  
13 the prisoner's badge number. Once all those things are together, I  
14 would get the staffers together -- I'd have one of my counselors go  
15 grab the other members that are going to be on the C&A board. We'd  
16 get there -- we'd go through usually alphabetically from the C&A  
17 board. Once we got to the prisoner we'd start reviewing we'd say,  
18 okay, this is this guy's name. You know, he's currently this status.  
19 He's being reviewed for this status, and that may be the same status  
20 he was already in or a change to his status. He's being reviewed for  
21 this status. And then we'd go through and look at why -- if it was a  
22 change -- even if it wasn't a change, you know, why is this guy being  
23 recommended for this status, you know, and then, you know, discuss

1 why he's being recommended for the status. Sometimes it's really  
2 easy. If a guy was coming off indoc' and getting assigned to the  
3 general population, he passed the indoc' test, he was coming off of  
4 indoc', sir.

5 Q. How often would a detainee show up before the C&A board?

6 A. Like personally appear, sir?

7 Q. Yes.

8 A. Never, sir. I mean I'm not saying never, but it's  
9 extremely rare, sir.

10 Q. So it was uncommon?

11 A. Oh, yes, sir.

12 Q. Do you remember if PFC Manning appeared before a C&A board?

13 A. Yes, sir.

14 Q. About how many times?

15 A. Twice that I remember, sir.

16 Q. Okay, and what do you remember about the first time?

17 A. I don't remember if it was the first or second time, sir.

18 I remember one, it was -- he didn't have a whole lot to say. I'm not  
19 sure if he knew what he was supposed to say, but it was -- it was  
20 pretty quick because -- I think he was appearing just because he knew  
21 he could appear and he wanted to appear. But it was -- nothing from  
22 that conversation between any of the board members or Manning -- I  
23 don't remember anything specific. The other one -- again, I don't

1 remember if it was the first or second one -- he -- again, we went  
2 over what we were there to talk about as far as the C&A board -- hey,  
3 here's your status. You're being recommended for this status. In  
4 this case it was to remain the same. And then -- I don't remember  
5 the order of ----

6 Q. Let's come back to these in a little while.

7 A. Okay, sir.

8 Q. When -- how would you weigh a statement of how a detainee  
9 feels now versus how he's going to feel in the future? Let me give  
10 you an example to clarify. So for instance let's say, I'm really  
11 looking forward to getting out and having a life after confinement  
12 versus I'm feeling really sad and lonely right now. Which one would  
13 you give more weight?

14 A. I'd give them the same weight just in opposite directions,  
15 sir. If somebody says, hey, I've got a plan this is -- when I get  
16 out I'm going to -- I got this job. I'm going to be with my family.  
17 Or this is what -- I'm going to school -- I have a plan. This guy  
18 has a plan beyond confinement. You know, and that's -- that's a good  
19 thing. If somebody tells me I don't have a plan, hey, I'm just  
20 feeling real sad or lonely, that's a cause for concern.

21 Q. So you weigh the statements based on their content?

22 A. Yes, sir.

23 Q. So after a detainee leaves -- if he appears before a C&A

1 board, what happens next?

2 A. After the C&A board's ----

3 Q. No, after he appears and says -- and expresses his  
4 thoughts?

5 A. After he expresses his -- obviously -- I mean we -- if had  
6 any questions, we'd answer his questions. I make sure they  
7 understood the questions and make sure they understood the answers to  
8 the questions. And nobody would leave the room until all of -- all  
9 of the statements that, you know, the prisoner or detainee wanted to  
10 make or made and all of his questions were answered to his  
11 satisfaction.

12 Q. What conclusion ----

13 A. Not -- not meaning that he agreed with the answer, but that  
14 he understood the answer.

15 Q. What conclusions did you -- or what -- what recommendations  
16 did you make as a member of the C&A board for PFC Manning other than  
17 the times he was on suicide risk?

18 A. To maintain current status, sir.

19 Q. And what would that have been?

20 A. POI, sir, if he wasn't on suicide watch.

21 Q. And maximum custody?

22 A. Yes, sir.

23 Q. Why?



1           A.    Because I never got -- I never got comfortable enough to be  
2   able to justify to myself -- I don't think this guy's at a heightened  
3   risk of, you know, for harming himself. I couldn't justify it to  
4   myself -- I couldn't sell it to the CO, sir. The CO's going to ask  
5   me why I'm recommending something. And if I can't tell him why I'm  
6   recommending something that I don't agree with myself.

7           Q.    Did you consider PFC Manning's behavior?

8           A.    Yes, sir.

9           Q.    What type of behavior did you consider?

10          A.    Well if during the periods of he was communicating with me,  
11   I would consider how much is he communicating with me. His  
12   communication -- any of the -- he didn't really have any disciplinary  
13   infractions. I would have considered those. He got counseled a  
14   couple of times; considered those. Any of the things that the guards  
15   observed while he was actually, you know, in his -- in his cell.  
16   Example, when they told me he was licking the bars or if he was to --  
17   sword fighting or whatever else they had documented. If his behavior  
18   was that of what normal prisoners were doing, sir.

19          Q.    What could PFC Manning have done for you to recommend a  
20   different custody and classification?

21          A.    The biggest thing to me sir? Communicate with me. Make me  
22   believe that when he says he's not going to harm myself -- I'm not  
23   suicidal, make me believe that that is true.

1 Q. And how often ----

2 A. I -- I can be comfortable with that answer and I -- I -- I

3 agree with you. I don't think that you need to be watched any more

4 closely than that of the general population prisoners.

5 Q. And how often would you discuss that idea with PFC Manning?

6 A. Whenever the topic of his custody and classification came

7 up. I mean it wasn't -- it wasn't a topic of discussion every week.

8 If he ever asked me about his custody and classification, we would

9 definitely talk about that. Just that question alone would begin --

10 begin to talk -- the talk about the C&A board and his conduct -- how

11 the C&A board goes, what's reviewed, what I consider, what I'm

12 looking for. So it wasn't -- it wasn't weekly, sir, but every time

13 that came up if he did -- if he did something then I would go talk to

14 him -- like something significant -- I wouldn't go talk to him every

15 time somebody told me he was lifting imaginary weights. I wouldn't -

16 - if I heard about it, I wouldn't go run and talk to him about it.

17 Q. Did you ever consider making a different recommendation for

18 PFC Manning?

19 A. Yes, sir.

20 Q. When?

21 A. Early January of 2011, sir.

22 Q. Did you discuss this rec -- this idea with other people?

23 A. Yes, sir.

1 Q. With whom?

2 A. The first time -- once -- once I was pretty confident that

3 I was going to make my recommendation to take him off of POI, if --

4 it was a Friday, sir. I -- I was -- I was ready to recommend next

5 week to recommend to the CO that we remove him from POI. And as I

6 was walking out of the brig for the day on Friday, I told Staff

7 Sergeant Jordan that. And more so we're just -- we're talking in

8 passing and I said, hey, I think next week I'm going to do it, you

9 know, one more week. He's been talking to me. I think he's ready.

10 You know, one more week and I'm good. I also want to see what, you

11 know, to see what Staff Sergeant Jordan thought, you know. We're

12 just talking as we're leaving.

13 Q. So why not make that recommendation at that time?

14 A. Sir, that next week was an -- the whole squad bay incident

15 happened down in the rec' room.

16 Q. You mean the 18 January 2011?

17 A. Yes, sir.

18 Q. Let's talk about that in a little while. What orders did

19 you receive about conducting C&A boards? Were you ever ordered to

20 keep any detainee on a certain custody or a classification?

21 A. No, sir.

22 Q. Were you ever ordered to keep PFC Manning on POI?

23 A. No, sir.

1 Q. Were you ever ordered to keep PFC Manning on maximum  
2 custody?

3 A. No, sir.

4 Q. Were you ever ordered to make any recommendations of any  
5 kind?

6 A. No, sir. My recommendations was my recommendations, sir.

7 Q. What is CORMIS?

8 A. CORMIS is the acronym for Correctional Management  
9 Information System, sir. Basically it's a database that all  
10 prisoners in the Navy and Marine Corps facilities are -- it's their  
11 electronic records, sir.

12 Q. And what is contained in CORMIS?

13 A. Everything, sir. Everything from their name to -- all  
14 their personal information; name, birthday, date they were confined,  
15 charges they were confined for, classification records, disciplinary  
16 infractions, all the -- all the paper documents that are generated in  
17 their record, they were scanned electronically and uploaded into  
18 CORMIS. It was everything, sir. If -- it's everything, sir.

19 TC[MAJ FEIN]: Now, Your Honor, I want to hand the witness  
20 Enclosure 24 to Appellate Exhibit 259.

21 MJ: Okay.

22 [The trial counsel handed the document to the witness.]

1 TC[MAJ FEIN]: I'm handing Enclosure 24 of Appellate Exhibit 259  
2 to the witness.

3 Q. Master Sergeant Blenis, I actually want to work from the  
4 back because this is in reverse chronological order.  
5 [The witness looked through the document.]

6 Q. On Page 57?

7 A. Yes, sir.

8 Q. Can you explain what the dates are in the most left column?  
9 So at the bottom it would be 2010, August 2d.

10 A. That's the -- okay, this is the target action date, sir,  
11 that if ----

12 Q. What do you mean by target action date?

13 A. If that was a -- the date the actual counseling happened,  
14 that's the date that it happened -- the actual calendar date.

15 Q. And what is -- we're at the bottom of Page 57. What is  
16 August the 3d 2010?

17 A. That's the date it was saved, sir. That's the date it was  
18 actually put in CORMIS and the save button is clicked, sir. And  
19 that's a date you can't -- it's automatically generated, sir.

20 Q. I want to go that entry that we're just talking about --  
21 the middle of the paragraph starting with "During the interview."

22 A. Yes, sir.

23 Q. What was PFC Manning told during his indoctrination

1 interview -- or during his interview with you, I mean?

2 A. [Reading from the document] That he will remain suicide  
3 risk status until the brig psychiatrist recommends removal and the  
4 Brig Commanding Officer removes him from the status.

5 Q. So his process of getting his status changed was discussed  
6 very early with him?

7 A. Yes, sir.

8 Q. And moving up two entries to the target action date of  
9 August 2nd still, was PFC Manning given counseling on suicide  
10 awareness and the importance of speaking with the counselor?

11 A. Yes, sir.

12 Q. And what was he told, do you remember?

13 A. If you feel you're -- you're even remotely thinking about  
14 considering hurting yourself that you need to speak to someone ASAP.  
15 I don't care if it's the guard that's working down there in the  
16 special quarters or -- I don't care if it's, you know, the guard  
17 walking by, I don't care if it's me. You need to tell the first  
18 person you see.

19 Q. I want to move to Page 56 now, and the entry on 10 August  
20 2010, the counselor notes. What was PFC Manning told during the  
21 interview about his custody and classification -- about the middle of  
22 the paragraph?

23 A. [Reading from the document] During the interview SND was

1 informed about the process of reducing his custody and classification  
2 and possible job assignments.

3 Q. So even then -- so early on again was PFC Manning being  
4 told and informed about his custody and classification and the  
5 process?

6 A. Yes, sir.

7 Q. Would you have discussed this with him?

8 A. Yes, sir.

9 Q. And I want to highlight the next entry up 11 August 2010.  
10 What does it say about PFC Manning's notification about the C&A  
11 board?

12 A. [Reading from the document] SND did not have any questions  
13 and did not request to appear before the board.

14 Q. Does it also say that he was notified he's -- his custody  
15 and classification would be reviewed that day?

16 A. Yes, sir.

17 TC[MAJ FEIN]: I just want to note for the record that  
18 throughout CORMIS this entry here in Enclosure 24 "Until January, PFC  
19 Manning, every week, was told he could appear before the board and he  
20 did not."

21 Q. And we're going to jump ahead a little, Master Sergeant.  
22 Let's go to Page 53.

23 [The witness did as directed.]

1 Q. About the middle again. What comment do you make about how  
2 PFC Manning communicated during the interview?

3 A. Looking at August 30th, sir?

4 Q. Sorry -- yes, 30 August.

5 A. [Reading from the document] During the interview SND stated  
6 that he was doing well but otherwise remained quiet. SND continues  
7 to remain quiet unless he's spoken to first, and is then short with  
8 his answers or responses.

9 Q. Was that typical for your level of communication?

10 A. With Manning, sir?

11 Q. Yes.

12 A. Yes, sir. Yes, sir.

13 Q. Would you have tried -- is this when you tried to get him  
14 to open up more?

15 A. Yes, sir. It was probably before August 30th at that  
16 point. He'd been there for a month. But that was -- that was  
17 probably how it continued until November timeframe, sir.

18 Q. Let's jump to Page 52 now for the 7 September 2010 entry.

19 A. [Looking through the document] Yes, sir.

20 Q. At the very end what does PFC Manning say about the way he  
21 passes his days?

22 MJ: What day did you say it is?

23 TC[MAJ FEIN]: 7 September 2010.



1           A.   [Reading from the document] SND started reading during the  
2 day to pass time, but only if it was an educational book since he  
3 does not read recreationally.

4           Q.   Would you have talked to him about his activities in the  
5 cell?

6           A.   Yes, sir.

7           Q.   And why would you do that?

8           A.   To see how he's passing his time, sir.

9           Q.   Why -- why is that important?

10          A.   If I've got a person that's communicating with me that's  
11 sitting -- just sitting there in their cell not doing anything,  
12 that's pretty much not a whole lot of anything to discuss, I mean,  
13 it's pretty much nothing. I mean he's sitting there existing but not  
14 doing anything, sir.

15          Q.   Let's move ahead to Page 49, 12 October 2010.

16          A.   [Looking through the document] Yes, sir.

17          Q.   Why does it say that PFC Manning wants minimal contact with  
18 the facility staff?

19          A.   Because he wasn't interacting with anybody, sir.

20          Q.   What do you mean by anybody?

21          A.   If -- any interaction that he was having with staff -- now  
22 this isn't me witnessing -- all this is what I'm hearing from staff  
23 members is -- basically the same way he was interacting with me was -

1 - you know, if I talk to him -- it's short direct questions not  
2 elaborating on much at all. And, you know, he was trying -- you  
3 know, get us to go on. You know, yes, no, aye, aye. Thanks for the  
4 chow, you know, whatever, and move on. Answer whatever questions or  
5 do whatever business the guard's there to do and, you know, get  
6 going.

7 Q. Let's jump to Page 48.

8 [The witness did as directed.]

9 Q. The top of the page is the entry for 18 October 2010. What  
10 kind -- what kind of efforts did you take here to spark conversation  
11 with PFC Manning?

12 A. [Reading from the document] To provoke conversation, SND's  
13 counselor asked SND's thoughts on the existence of Sasquatch. Once  
14 the subject was brought up the dialog between and counselor was that  
15 of a normal conversation. The dialog evolved into a conversation  
16 about the evolution of man and the man's use of brain. At the end of  
17 the story -- or at the end of the conversation, SND was given a copy  
18 of the "Alligator River Story" from a Crossroads module, which will  
19 be followed up on next week. SND was brought to the counselor's  
20 office for the interview, but SND stated he was fine in his cell.  
21 When told about it -- when told it would help break up the monotony  
22 of the day and help reduce boredom, SND stated that he was not bored  
23 in his cell since he's used to it. Unless SND is in -- any form of

1 visitation or executing a portion of the daily routine -- example, a  
2 Sunshine Call or a TV call; SND spends his entire day sitting Indian  
3 style on his rack until taps. Although SND is authorized to have a  
4 book in his possession between reveille and taps, SND has only read  
5 two books since his arrival at Quantico.

6 Q. So, Master Sergeant, why would you document that last  
7 sentence that he'd only read two books?

8 A. They're -- most prisoners are able to read a book in one or  
9 two days, and they go through the entire library -- some of them --  
10 while they're there. I mean, reading is one of the biggest things  
11 that prisoners do to pass time inside the -- inside the brig, sir,  
12 especially during normal working hours because during normal working  
13 hours TV call's not going. If they're not at work they're in their  
14 cell. And so reading becomes a huge focus, sir.

15 Q. And was it -- when you said -- was it unusual for someone  
16 to read so little?

17 A. No, sir. I mean there's prisoners that don't read at all.  
18 But I mean they're rare. Prisoners that don't read normally, you  
19 know, before they're confined, they start reading, sir.

20 Q. And would this be the type of behavior you would have  
21 considered when you sat a classification and assignment board?

22 A. Yes, sir, or lack of behavior if you want to call it that.

23 Q. And would have every factor that went into your decision at

1 the time been documented on the form or in CORMIS?

2 A. No, sir.

3 Q. Why not?

4 A. Sir, I'm not going to document every time someone does or  
5 does not talk to me, every time someone does or does not read a book,  
6 every time somebody does or does not interact with the staff the way  
7 they'd normally be expected, that's just -- if we did that, sir, at  
8 what point are we actually running the brig and not writing?

9 Q. Let's move to Page 45 and 46. Start at the entry for 2  
10 November 2010.

11 A. [Looking at the document] Yes, sir.

12 Q. In the note section it states that the Brig OIC authorized  
13 PFC Manning an additional correspondence time. Why was that?

14 A. I'm sorry, sir?

15 Q. Why was PFC Manning authorized additional correspondence  
16 time?

17 A. Because the commanding officer approved it, sir.

18 Q. And why would he have done that?

19 A. I recommended it, sir.

20 Q. So why would you -- why did you recommend that then?

21 A. At this point if I made that recommendation, sir, that's  
22 because Manning must have already been -- you know, he's talking to  
23 me a little bit more.

1 Q. Is that -- do you note that in the paragraph above?

2 A. [Reading from the document] It says SND did not receive any  
3 disciplinary reports or adverse spot evaluation reports. During the  
4 interview SND stated he was doing well and everything was going fine.  
5 SND again showed no desire to engage in any conversation aside from  
6 how he's doing and if his attorney had called.

7 Q. A little further down you described his spirits on Page 46?

8 A. [Reading from the document] SND was reviewed by the -- SND  
9 appears to be in high spirits and have a positive attitude.

10 Q. Why would you have described him as being in high spirits  
11 and a positive attitude?

12 A. I -- sir, I don't remember what I saw on that day or had  
13 been seeing a couple of days previous to it. But I saw something  
14 that made me write it, sir.

15 Q. Are you documenting an improvement there?

16 A. Yes, sir.

17 Q. Is that part of the reason maybe you recommended increasing  
18 correspondence time?

19 A. Yes, sir.

20 Q. Back on Page 45 for 8 November, how was PFC Manning's level  
21 of communication ----

22 [The witness looked at the document.]

23 Q. ---- you don't have to read -- level of communication

1 following -- the following this session?

2 A. Sir, still he's pretty much avoiding any kind of  
3 conversation -- engaging in any kind of conversation, and he appears  
4 to be content left being to himself, sir.

5 Q. Looking at that notes what does that suggest to you about a  
6 change from the previous week?

7 A. I didn't write his -- high spirited, sir.

8 Q. So what does that suggest to you looking back at your  
9 notes?

10 A. That he was -- he didn't do anything that made me think,  
11 hey, this guy's -- actually seems like he's in a pretty good mood  
12 today. He didn't do anything noteworthy, sir, that really stuck out  
13 to me.

14 Q. Moving to Page 41. I'm going back -- looking for 23  
15 November. Just so you know -- your bearings, we're going to Page 43  
16 in the top box.

17 [Looking at the document] Okay, sir.

18 Q. Is this where you documented some of the behavior?

19 A. Yes, sir. And this is -- as far as the -- being observed  
20 sword fighting, imaginary characters in his cell, that's not me  
21 observing it, sir, that's what's written in that -- the logbook we  
22 talked about earlier, sir. And this is me just -- being that we have  
23 CORMIS and his prisoner record and I was doing a weekly progress

1 report, I started putting all of this in CORMIS to try and  
2 essentially locate all these different documents that are being  
3 generated, sir. It was -- I mean there was a lot of different things  
4 and I wanted to kind of put it into one spot, sir.

5 Q. And going back to Page 41 for the entry from 30 November,  
6 what changed does the Brig OIC make with regard to PFC Manning's  
7 recreation time?

8 [The witness looked at the document.]

9 Q. Number 3.

10 A. Said he approved the Sunshine Call be conducted without  
11 requirement the Brig OIC, brig supervisor or operations chief having  
12 to be aboard the facility.

13 Q. And why would he have made that change?

14 A. Because at that point he -- the CO probably felt -- he felt  
15 like, hey, you know, I -- I'm not so concerned that something's going  
16 to happen when he goes out to rec' call that I don't need to be here.

17 Q. Were you making any recommendations with regard to rec'  
18 time around the end of November 2010?

19 A. Yes, sir. There was -- there was a point where I  
20 recommended that it get extended to one hour, sir.

21 Q. And so this is -- was this partially acting on your  
22 recommendation?

23 A. Yes, sir.

1 Q. I want to ask you about from Page 36, the entry for 20  
2 December 2010.

3 [The witness looked at the document.]

4 Q. You talk about PFC Manning being quiet and discuss his  
5 interaction with his family members. Why was that worth noting?

6 A. 'Cause he seemed upset that nobody came to visit him since  
7 his birthday was coming up, sir -- or his birthday actually had --  
8 was this past Friday, sir.

9 Q. And what -- what would that make you think? Would that  
10 play a role in your recommendation for a prevention of injury?

11 A. Yes, sir. I mean he -- he must have been expecting them  
12 because he was upset that they didn't come. So I don't know if -- if  
13 he was just thinking they might come or if he heard something. Maybe  
14 he was just hoping that, you know, my birthday's coming up, maybe my  
15 -- I think it was his aunt had been coming a couple times up until  
16 there, so maybe he's just thinking, hey, maybe they'll come for my  
17 birthday. I don't know if he's expecting them or not, but maybe  
18 hopeful. And then they didn't. But I know during this interview it  
19 looked -- I don't remember it, but obviously I felt like noting that  
20 he looked upset.

21 Q. I want to move to Page 33 now for 28 December 2010 and ask  
22 you about -- do you remember counseling PFC Manning about voluntary  
23 statements?



1           A.   [Looking at the document] Yes, sir. I told him that a  
2 voluntary statement is just that; it's voluntary, sir. You're not --  
3 you're not forced to write a voluntary statement. If -- it's  
4 designed so something's documented. If something happens and we were  
5 to ask the prisoner to write a voluntary statement and they said no,  
6 it's going to get documented anyway. We're asking the prisoner to  
7 document it in a voluntary statement. In this case recreation call -  
8 - I don't want to go outside for recreation call. Hey, put it on a  
9 voluntary statement, you know, tell me that, hey, you -- didn't go to  
10 rec' call today because you didn't want to. He doesn't have to write  
11 that statement, sir. If he doesn't we're just going to write an  
12 incident report.

13           Q.   Moving to Page 31, what behavior did PFC Manning exhibit on  
14 4 January 2011?

15           A.   [Looking at the document] Talking and giggling to himself  
16 then beating himself in the chest, sir.

17           Q.   Was it the kind of thing the classification and assignment  
18 board would consider?

19           A.   Yes, sir.

20           Q.   Then on Page 28 and 29, does it say if PFC Manning was  
21 notified about a classification and assignment board that he could  
22 appear on 14 January 2011?

23           A.   [Looking at the document] Yes, sir.

1 Q. And did PFC Manning choose to appear before a  
2 classification and assignment board that day?

3 A. No, sir.

4 Q. All right. Let's talk a little bit about 18 January 2011.  
5 What do you remember about that day? Where does it start for you?

6 A. Probably around lunchtime, maybe early afternoon, sir, I  
7 think. They -- the guards took him down to -- down to the squad bay  
8 -- down to the recreation area inside. And I wasn't there, sir, so I  
9 don't really know exactly what happened. I know -- it was basically  
10 reported that once -- once he got there -- I'm not sure if the  
11 restraints were on or off at the time. I think they were off or they  
12 were working on getting them off, but he started -- ultimately he  
13 ended up running and curling up on the floor or going behind a  
14 machine or something like that and then crying or something like  
15 that, sir.

16 Q. Do you remember seeing him after the incident?

17 A. Yes, sir.

18 Q. And how did he appear when you first saw him?

19 A. I remember talking to him after, sir. How he appeared?  
20 When I -- when I got down to the cell he was -- if I remember  
21 correctly he was standing -- he was agitated, sir. Not -- he wasn't  
22 acting out or anything when I got there. I can tell -- I could tell  
23 he was upset.

1 Q. And do you remember talking to him?

2 A. Yes, sir.

3 Q. And was this before or after the video started?

4 A. The camera was already there when I got there, sir. I

5 don't know if they're recording or not but the camera was -- the

6 camera's already there, sir.

7 Q. Do you remember a protest at Quantico?

8 A. Yes, sir.

9 Q. Do you remember the staff talking about them?

10 A. Of course, sir, we -- I mean we knew they were going on.

11 We had a couple of extra posts set up because of them -- not just us

12 at the brig, but the PMO did, sir.

13 Q. Did they ever interfere with your life?

14 A. With my life, sir?

15 Q. Coming and going?

16 A. No, sir.

17 Q. Did -- do you remember the staff being irritated?

18 A. I don't think they really cared about the protest itself,

19 sir. I mean they're -- I'm sure they were upset that, you know, they

20 were pulling extra posts. We were on, sir, 24 hour shifts as it was

21 and they were coming on what was normally scheduled to be off. So I

22 mean nobody's happy about that.

23 Q. But you don't remember that affecting the way they

1 interacted with detainees at all?

2 A. I don't think so. I never heard of anything like that,  
3 sir.

4 Q. And after this 18 January incident did you counsel PFC  
5 Manning about it?

6 A. We talked about it, sir. I remember he told me he felt  
7 like he was provoked or something like that. I think he was  
8 corrected -- corrected about something by a couple of the guards I  
9 think -- I think before he actually went down to the squad bay if I  
10 remember correctly -- that or as soon as he got there, I'm not sure.  
11 And I think he told me he felt like he was just being like singled  
12 out or -- I'm not -- he was just messed with, sir. I don't really  
13 know what the correction was.

14 Q. Do you remember the classification and assignment board  
15 thereafter on 21 January?

16 [The witness looked through the document.]

17 A. Yes, sir.

18 Q. Do you remember someone bringing up the question about PFC  
19 Manning's statement about always planning and never acting on  
20 suicide?

21 A. Yes, sir, Gunnery Sergeant Fuller did.

22 Q. And what did PFC Manning -- did PFC Manning explain the  
23 statement?

1           A.    Yes, sir.  When -- when Gunny Fuller said -- you wrote that  
2  -- that you were considering suicide and you were always planning and  
3  never acting, if I remember right, PFC Manning didn't -- didn't  
4  remember writing it or said it didn't remember writing it.  And Gunny  
5  -- and I remember Gunny Fuller saying -- saying that you filled out  
6  documentation in this building that said that.  And Gunny Fuller  
7  actually showed him the form.  And Manning looked at it, and he sat  
8  back and said well, that may have been false.

9           Q.    What did that mean to you?

10          A.    Well, sir, the first thing that popped in my head because  
11  it was almost immediate, I said, well, if that may have been false,  
12  then five minutes earlier when we -- pretty much when we first sat  
13  down when I asked you were suicidal right now, you said, no.  I asked  
14  him should I assume that statement's also false?  And he said yes.  
15  And then Gunnery Sergeant Fuller almost immediately said do you  
16  understand what you were just asked?  And Manning said yes.

17          Q.    And what did that make you think after all that?

18          A.    Sir, at that point I didn't know what to believe.  I mean I  
19  -- he was giving me an answer but then telling me it may be false.  
20  He was telling me that a statement that he did write may be false.  I  
21  -- at this point, sir, he's telling me that he's -- at that point I  
22  think anything may be false.  If he tells me at all it might be  
23  false.  I don't know at this point.  Now I'm -- now I'm dumbfounded.

1 I don't know what to think anymore, sir.

2 Q. So how does this affect your trust with PFC Manning?

3 A. It went down, sir. Not of him in particular but of his  
4 statements. I mean it went down significantly, sir. That was huge  
5 to me, sir.

6 Q. Let's move to Page 20, which discusses PFC Manning's -- PFC  
7 Manning's appearance before a classification and assignment board.  
8 Does it -- does it describe PFC Manning being sarcastic about that  
9 statement?

10 [The witness looked at the document.]

11 Q. At the end of the first paragraph.

12 A. [Looking at the document] He said he was being sarcastic  
13 when he wrote it -- when he wrote always planning, never acting.

14 Q. And is this about that appearance before the board or a  
15 different appearance?

16 A. I think this is the -- this is re -- where we're talking  
17 about the statement he made in the previous board he appeared on  
18 about two weeks earlier.

19 Q. Is sarcasm something that's easy that -- how does sarcasm  
20 affect communication with brig staff?

21 A. Sir, I don't interpret sarcasm from prisoners, sir.

22 Q. Why not?

23 A. It's not my job, sir, especially -- sir, when we're talking

1 about suicidal statements of actions or gestures, I -- sarcasm's out  
2 of the picture. If there's -- there's certain things in this world  
3 you just don't do. Example; I don't go to an airport and joke about  
4 a bomb. I don't go to D.C. and joke about assassination. I don't go  
5 to a jail and joke about suicide.

6 Q. Let's -- let's go forward in time a little bit to 2 March  
7 2011. Do you remember PFC Manning making a -- hearing about any  
8 comments PFC Manning may have made about his underwear?

9 A. Yes, sir.

10 Q. And what did you hear PFC Manning said?

11 A. I didn't hear Manning say it. I was told that he said if I  
12 wanted to kill myself, I would use the elastic in my underwear or  
13 words to that effect.

14 Q. And how did you hear about it?

15 A. Master Sergeant Papakie told me about it, sir.

16 Q. And what did you do in response?

17 A. I didn't do anything, sir. I mean, I was in my office when  
18 he told me about it. I believe Chief Warrant Officer Barnes was in  
19 there as well. My first thought was if we -- we can't let him have  
20 his underwear now.

21 Q. Why -- why would you think that?

22 A. Sir, that's a plan. If somebody tells me they're going to  
23 shoot themselves in the face I'm not going to give them a gun.

1 Q. Is this because humor -- the way you interpret humor as a  
2 counselor and a member of the brig staff?

3 A. I'm sorry, sir?

4 Q. Is that because the way you interpret sarcasm as a member  
5 of the brig staff and counselor?

6 A. I don't interpret sarcasm, sir. Not 'cause -- not when  
7 we're talking about hurting yourself.

8 Q. What did PFC Manning say about the comment when he talked  
9 to you about it?

10 A. [No response.]

11 Q. How much did he -- how much did he tell you about the  
12 comment?

13 A. Sir, I asked him -- you know, I didn't -- I didn't -- I  
14 didn't restate the comment to him. I asked him what he said to  
15 Master Sergeant Papakie. And -- at this point this is in my office.  
16 It's just myself and PFC Manning in my office. And I asked him, hey,  
17 man, what did you say to Master Sergeant Papakie? And he -- he acted  
18 like he didn't know what I was talking about. I mean I already knew  
19 -- at this point I already knew the answer because it's after me and  
20 Master Sergeant Papakie talked. I asked him, what did you say to  
21 Master Sergeant Papakie? He acted like he didn't know what I was  
22 talking about. And I said, well, did you do something or -- I don't  
23 remember my quotes now -- and I'm like, hey, you said or did



1 something that, you know, to Master Sergeant Papakie, and, you know,  
2 we're about to have your underwear taken away. You're not allowed --  
3 you're allowed not to have your underwear anymore. He never -- he  
4 never really acknowledged the statement. He never came out and said  
5 what he said.

6 Q. Did he deny the statement?

7 A. I didn't tell him the statement, sir. So I didn't -- I  
8 didn't ask him, hey, did you say this, and then he said, no, I did  
9 not say that. At least I don't remember saying that to him. I'm  
10 almost positive of that.

11 Q. So how much communication was there about this from PFC  
12 Manning?

13 A. Next to none, sir. We were very brief.

14 Q. Were there any other events around that time that may have  
15 -- you may have considered in context?

16 A. [No response.]

17 Q. Do you remember if PFC Manning was going off his medication  
18 in the beginning of March?

19 A. Yes, sir. Okay. There was a series of events almost -- I  
20 mean within a real short timeframe that were, you know, to me they  
21 were risk factors. And, again, each one in itself is maybe small,  
22 but when I have small stuff stacked up -- it's big stuff. The -- and  
23 I don't remember the order -- he did get taken off his medications.

1 And I remember that being significant only because at one point --  
2 and this -- I don't remember what day this is, but this is real close  
3 to this timeframe, he asked me, you know, I don't understand why I'm  
4 on suicide watch or prevention of injury. I don't know why I ever  
5 was or anything. And we talked about it a little bit. And I asked  
6 him -- I'm like, hey, what -- in suicide -- in Kuwait you were  
7 suicidal. And he said yes. And I'm like but now you're not? And he  
8 said yes. "Yes" meaning he's not. I asked him -- I go, okay, what's  
9 changed? You know, something between Kuwait and now -- something's  
10 changed. And he said nothing's changed. And I told him -- I'm like,  
11 look, if you're not having the same feelings you were then until now,  
12 something must have changed. Anything. Give me something small.  
13 Something must have changed. And he told me that they were taking  
14 him off of -- well he no longer was suicidal because they put him on  
15 medications back in Kuwait, I believe. And I asked him -- these the  
16 medications you're getting taken off of? I'm not sure if they  
17 started taking him off at that point. They just didn't -- they  
18 didn't just cold turkey it. They -- they -- I think over maybe the  
19 two week period they started reducing his medications until  
20 ultimately he came off. But they were the same medications he was  
21 talking about that they put him on to make him not feel suicidal  
22 anymore. And so -- now I'm thinking, okay, that's the only thing  
23 that's changed? And he's like, yeah, that's the only thing that's

1 changed. I'm like, okay, so if pre-meds' you're suicidal, post-meds'  
2 you're not, but now we're going back to pre-meds', doesn't that put  
3 us back at square one? You know, this is what I'm gathering from  
4 this. So the medications were getting removed. I don't have a fear  
5 exactly -- completely removed at that time or if they're in the  
6 process -- they're in the process of being removed at least. And  
7 then his mental visitation list; he had ----

8 Q. Do you remember when that was?

9 A. The medication, sir?

10 Q. No, no, no. Like -- do you remember when he changed his  
11 visitation list?

12 A. The same timeframe, sir.

13 Q. I mean all -- all within a matter of days of -- the 22d --  
14 the 22d of March, maybe?

15 A. Yes, sir. I'm not -- I can't remember the date, sir. But  
16 it was all really close --

17 Q. Okay.

18 A. -- between -- between the medications getting removed, the  
19 mail and visitation list and -- what was significant to me about the  
20 mail and visitation list -- even though he's removed -- and it was  
21 all the names except for just a handful. But to me what was  
22 significant was up until that point everybody that had visited him,  
23 if I remember correctly, that had visited him up to that point were

1 removed. So the only people that were left on the list were people  
2 that had never visited. Of if they did visit, maybe once. So  
3 essentially he was -- left a mail and visitation list of people that  
4 hadn't come to visit them at this point in the eight months or so --  
5 seven or eight months since he's been there. So that was kind of  
6 significant to me because at that point it's isolation. Up until  
7 this point he had -- I don't think he'd ever made a phone -- outside  
8 of speaking to his attorneys or probably his command, he'd never make  
9 any personal phone calls to family or friends or anything like that.  
10 And he didn't receive any letters that he actually accepted. And he  
11 didn't write any letters either, sir. So now I've got him basically  
12 shutting himself off to everybody -- outside of his attorney -- to  
13 anybody he ever talked to, sir. He wasn't reading, he wasn't  
14 writing, and now he's not visiting.

15 Q. Let's talk a little bit about intellectual stimulation. Do  
16 remember Colonel Malone making any recommendations that PFC Manning  
17 would benefit from increased intellectual stimulation?

18 A. Yes, sir.

19 Q. Is that something you tried to work with?

20 A. Yes, sir, a couple of months earlier -- about several  
21 months earlier probably.

22 Q. Would you please turn to Page 4?

23 A. [Looking at the document] Yes, sir.

1 Q. What happened when you tried to discuss brain teasers with  
2 PFC Manning?

3 A. He said they were below my level. I remember --

4 Q. What's that mean?

5 A. -- I remember him telling me, you know, it just wasn't  
6 challenging enough. He said the same thing when I tried to play  
7 chess with him -- long before that.

8 Q. And how -- how would he express it? What would his tone  
9 be?

10 A. Really -- arrogantly, sir. Extremely arrogant -- that's  
11 what I heard.

12 Q. Do you remember PFC Manning around this time expressing the  
13 desire for note taking material?

14 A. Not specifically, sir. I wouldn't say he didn't. I just  
15 don't specifically remember it.

16 Q. Do you see where it says he did express the desire to have  
17 ----

18 A. [Looking at the document] Okay, yes, sir -- yes, sir, he  
19 did express the desire to have note taking material.

20 Q. Would you have forwarded that recommendation to the Brig  
21 OIC?

22 A. Yes, sir.

23 Q. And on Page 2, did the Brig OIC act on that recommendation,

1 Number 4?

2 A. [Looking at the document] Yes, sir, he did. He approved  
3 it.

4 Q. So would you -- how individualized would you say that PFC  
5 Manning's treatment was?

6 A. Pretty individualized, sir. I can tell you -- use the  
7 example of correspondence time being two hours. Everybody's got  
8 changed at that point. So it was -- the -- it changed -- it changed  
9 everything -- not everything but, you know every prisoner's hand --  
10 letter definitely.

11 TC[MAJ FEIN]: Thank you. No further questions. Your Honor,  
12 the United States requests a 15 minute recess.

13 MJ: Okay, any objection?

14 CDC[MR. COOMBS]: No objection, Your Honor. Although we may  
15 need slightly longer, I have to maybe -- stuff I need to set up. If  
16 I can advise the court -- we can start with 15, and then if need be,  
17 I can advise the court.

18 MJ: All right, why don't we do that? Court is in recess until  
19 10 minutes to.

20 **[The Article 39(a) session recessed at 1437, 2 December 2012.]**

21 **[The Article 39(a) session was called to order at 1502, 2 December**  
22 **2012.]**

23 MJ: This Article 39(a) session is called to order. Let the

1 record reflect all parties present when the court last recessed are  
2 again present in court. The witness is on the witness stand. Mr.  
3 Coombs?

4 CDC[MR. COOMBS]: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 **Questions by the civilian defense counsel:**

7 Q. Master Sergeant Blenis, I remind you you're under oath.

8 A. Yes, sir.

9 Q. All right, now you found out about PFC Manning's arrival  
10 about three days prior to him arriving at the brig, correct?

11 A. Yes, sir, three to four days.

12 Q. You received some emails with attachments containing PFC  
13 Manning's files?

14 A. Not -- not his entire file, sir. It was a lot of  
15 attachments. Quite a few of them were just logbook entries that --  
16 that mostly didn't mean a whole lot of anything. But quite a few  
17 attachments -- I don't think it was his entire file though, sir.

18 Q. So you received an email containing files related to PFC  
19 Manning?

20 A. Yes, sir.

21 Q. And you remember looking at those files?

22 A. Yes, sir.

23 Q. And you emailed Captain Hocter on the day of PFC Manning's

1 arrival, correct?

2 A. Yes, sir. I think I actually emailed him before that, but  
3 probably the same day, sir.

4 Q. And you wanted Captain Hocter to schedule or possibly third  
5 weekly visit to the brig in order to see PFC Manning?

6 A. Yes, sir, because I think he came there -- the night that  
7 he arrived, and I think we wanted him to come like the next day or  
8 two days after or something like that, sir.

9 Q. But you actually asked him -- we want you to schedule a  
10 second and possibly a third weekly visit?

11 A. Yes, sir.

12 Q. And you told Captain Hocter that PFC Manning was going to  
13 be a high profile case?

14 A. Yes, sir.

15 Q. You anticipated that the media would be "Knocking on your  
16 door fairly often"?

17 A. I guess so, sir.

18 Q. Do you recall saying that?

19 A. No, sir. I mean -- if you're reading it, sir, I guess I  
20 did -- I concede that.

21 CDC[MR. COOMBS]: I'm showing you what's been marked Appellate  
22 Exhibit 435 Alpha [handing the document to the witness].

23 Q. This is the email from you to Captain Hocter?



1           A.   [Looking at the document] Yes, sir.

2           Q.   And, again, you tell him that the media would be knocking  
3 on your door fairly often, correct?

4           A.   [Looking at the document] Yes, sir.

5           Q.   You also told Captain Hocter that PFC Manning had been  
6 "Deemed a high risk to himself from as high as a major general in the  
7 Army"?

8           A.   Yes, sir.

9           Q.   You also told him that Headquarter Marine Corps had already  
10 contacted you at this point stressing the attention that you were  
11 going to get from having PFC Manning at the brig?

12          A.   Yes, sir.

13          Q.   And Captain Hocter agreed to come a second or third time  
14 weekly?

15          A.   Yes, sir.

16          CDC[MR. COOMBS]:   Retrieving 435 Alpha from the witness  
17 [retrieving the document from the witness].

18          Q.   But you knew that PFC Manning's case is being watched by  
19 people much higher in the chain of command, correct?

20          A.   That's -- that's what I was led to believe, sir, either by  
21 word-of-mouth from my chain of command or maybe part of the email  
22 attachments, sir -- email -- yes, sir.

23          Q.   All right. And you knew it was being watched by Lieutenant

1 General Flynn?

2 A. At that point, no, sir. But I -- I didn't really think  
3 about all of that, sir. I just know what I was being briefed.

4 Q. Well, let me ask you --

5 A. I don't know if General Flynn's name ever came up.

6 Q. -- the question, you knew that Lieutenant General Flynn was  
7 paying attention to this case while PFC Manning was at the brig?

8 A. No, sir. I don't know if Major -- Lieutenant General Flynn  
9 himself personally was. I don't remember thinking him.

10 Q. Is that your testimony --

11 A. It wouldn't surprise me though.

12 Q. -- right now?

13 A. Yes, sir.

14 Q. Okay.

15 [Pause]

16 CDC[MR. COOMBS]: I'm handing the witness what has been marked  
17 Appellate Exhibit 435 Bravo for the record [handing the document to  
18 the witness].

19 Q. Do you recognize that?

20 A. [Looking at the document] Yes, sir.

21 Q. Okay, so this is an email from you to Chief Averhart,  
22 cc'ing Gunny Sergeant Papakie, regarding some information that you  
23 received from me, correct?

1 A. Yes, sir.

2 Q. Basically I wanted to confirm some report that my client  
3 might have been licking the bars, is that correct?

4 A. That's correct, sir.

5 Q. And you confirmed that Manning had been observed licking  
6 the bars to his cell while appearing to be sleeping, correct?

7 A. Sleep walking -- yes, sir.

8 Q. All right. And so at that point then you were concerned  
9 because you thought how did I know that information, right?

10 A. Correct, sir.

11 Q. And, in fact, then you say the chain of this information  
12 went from the guard to me, and from me to Master Sergeant Papakie and  
13 yourself via the weekly report, correct?

14 A. Yes, sir.

15 Q. To my knowledge -- excuse me, to my understanding this  
16 report goes from yourself, to our commanding officer, then to Colonel  
17 Choike, who I assume briefs Lieutenant General Flynn?

18 A. Yes, sir.

19 Q. So you knew Lieutenant General Flynn was involved in the  
20 case?

21 A. No, sir. This is dated November 30th --

22 Q. Right.

23 A. -- so at the time of Manning's confinement -- initial

1 confinement at Quantico, I didn't know if General Flynn was involved  
2 or if he knew anything about it at that point. I'm assuming -- that  
3 this here says I assume he briefs Lieutenant General Flynn.

4 Q. All right, why don't we nail your testimony down. Right  
5 now as you sit there today -- I'm retrieving the exhibit from the  
6 witness [retrieving the document from the witness]. Did you know  
7 Lieutenant General Flynn was paying attention to this case at some  
8 point?

9 A. Eventually, yes, sir.

10 Q. All right.

11 A. Initially I don't know if he did or not. I assumed he did  
12 on November 30th.

13 Q. Okay. And you assumed he did because why?

14 A. He was the Commanding General, sir.

15 Q. Any other reason?

16 A. No, sir. He was the Commanding General. And at that point  
17 -- you know -- a weekly report doesn't get generated on every  
18 prisoner every week. And I knew that it went out to the battalion.  
19 And I'm -- at that point I'm just going through the chain of command,  
20 and I assumed it went to General Flynn.

21 Q. Okay. So then Major General Ary also is somebody that you  
22 know is paying attention to the case, correct?

23 A. He came down to -- he came down to visit winter time

1     sometime, sir.

2           Q.    He actually came down and had a tour of the brig?

3           A.    Yes, sir.

4           Q.    And that wasn't just because he felt like being there,

5     right?

6           A.    No, sir.

7           Q.    It was because of PFC Manning?

8           A.    Yes, sir.

9           Q.    And you actually sat down and had lunch with him?

10          A.    Yes, sir.

11          Q.    You actually had a lot of high profile people come through

12     the brig at that time?

13          A.    Yes, sir, over the months.

14          Q.    And you understood, again, that Lieutenant General Flynn

15     needed to be in the know with regards to anything concerning PFC

16     Manning's confinement?

17          A.    Yes, sir.

18          Q.    In fact, you sent Master Sergeant Papakie that email that

19     we just discussed because you didn't want the command to be

20     blindsided by the fact that somehow the defense counsel knew

21     information that you thought I shouldn't know?

22          A.    Correct, sir.

23          Q.    Now you were PFC Manning's counselor, right?

1           A.    Yes, sir.

2           Q.    And under the SECNAV Instruction a counselor is required to  
3 be an E5 and above?

4           A.    Yes, sir.

5           Q.    The counselor's required to complete specialized training  
6 designed for correctional counselors?

7           A.    Yes, sir.

8           Q.    And you completed that training I imagine?

9           A.    Yes, sir.

10          Q.    What sort of things did they teach you at the training that  
11 you went to?

12          A.    Just different ways to talk to prisoners, sir. The  
13 administrative requirements -- just different ways to talk with  
14 different personality types -- different prisoners; ways to deal with  
15 prisoners. If somebody's not talking to you; talk to them. If  
16 somebody's being combative; how to talk them down.

17          Q.    So a lot of just how to talk to prisoners, that's all they  
18 taught you?

19          A.    Sir, this is back in 2003. I don't remember the program of  
20 instruction.

21          Q.    What -- what things pop to mind other than how to talk to  
22 prisoners? What else did they teach you?

23          A.    The administrative requirements, sir. That's what pops in

1 mind, sir.

2 Q. Did they also teach you how to, you know, maybe spot  
3 detainees that needed some help?

4 A. I'm sure they did, sir.

5 Q. And things you should do if you thought a detainee needed  
6 help?

7 A. I'm sure they do, but I don't remember specifically, sir.

8 Q. You don't recall that now as you sit there?

9 A. No, sir. I mean, I'm talking about a school I went to in  
10 2003.

11 Q. Well I'm sure you would agree with me that under the SECNAV  
12 Instruction the goal of a counselor is to assist a detainee in the  
13 program development, correct?

14 A. That sounds about right, sir.

15 Q. And basically under the SECNAV Instruction a counselor is  
16 supposed to develop both specific short term goals and long term  
17 goals for a detainee?

18 A. Correct, sir. If it says that in the SECNAV, that is  
19 something that happens.

20 Q. And that's what your understanding of what a counselor  
21 should do?

22 A. Yes, sir.

23 Q. In order to accomplish these requirements a counselor

1 basically meets with an individual detainee at least weekly?

2 A. Yes, sir.

3 Q. Now you're also supposed to include feedback that you

4 receive from other brig personnel regarding their observations of

5 somebody you're a counselor for, correct?

6 A. Yes, sir. I mean that's -- we talk to each other, sir.

7 Q. And even though you get feedback from other people, you'd

8 agree with me that a counselor at a brig is probably the person who

9 knows the detainee better than anyone else?

10 A. No, sir.

11 Q. You wouldn't think so?

12 A. No, sir.

13 Q. And why is that?

14 A. Because the counselor sees him at least weekly --

15 Q. Right.

16 A. -- sometimes more. But the guard staff are with him day

17 and night.

18 Q. So you -- as you sit there now you'd think the guard staff

19 would know a detainee better than the counselor?

20 A. They're going to know how he acts day and night better than

21 I would, sir.

22 Q. So if -- if individual guards came forward and said they

23 didn't see anything out of the ordinary with PFC Manning, that he



1 acted pretty much normal for anybody that was in MAX custody, you  
2 would say that they would know better than you?

3 A. It depends on what they're saying, sir. I mean ----

4 Q. That's what they're saying. So if that's what they said,  
5 would you say that those guards would know Detainee Manning better  
6 than you as a counselor?

7 A. They know his behavior while he's in the housing area  
8 better than I do because I'm not there in the housing area.

9 Q. Okay. And I thought you said that individual guards would  
10 know the detainee better than the counselor because they see him more  
11 often?

12 A. They're going to know his behavior better. They're going -  
13 - if I meet with somebody once a week, say a half hour --

14 Q. Right.

15 A. -- once a week, it's not hard for somebody to act a certain  
16 way that's with me once a week. But then they go back to their  
17 housing area and they go back to -- if they were acting for me -- go  
18 back to their normal conduct. I wouldn't see that.

19 Q. Okay, so ----

20 A. Sir, what I know is what I see that 30 minutes once a week,  
21 let's just say.

22 Q. So if we are -- all things being equal, if we are, in fact,  
23 hearing different accounts from different people, then you would

1 think as you sit there now, that the guards who saw him during the  
2 day would be the most reliable source of information just from the  
3 amount of time they get to spend with the detainee?

4 A. Not always, sir. They'd be a good source of information;  
5 not the most reliable.

6 Q. Well, I'm just trying to pin it down because you said that  
7 a detainee can be any way, you know, for a half hour or so that they  
8 want to be with you.

9 A. They can be.

10 Q. And I thought what you were saying is when the detainee is  
11 back in their cell and they're basically being observed for the rest  
12 of the 23 hours, it's kind of hard to maintain that acting role,  
13 right?

14 A. Yes, sir.

15 Q. And so the individual guards who were seeing him for all  
16 that time period, they would be the ones who'd probably see him and  
17 be able to judge, yeah, this is the way the guy is?

18 A. Yes, sir. But -- I mean we're talking about -- we're  
19 talking about -- it depends on the prisoner. I mean, there's no --  
20 you can talk about any prisoner you want. There's no set -- the  
21 guards will know better than then counselor, or the counselor will  
22 know better than the guards.

23 Q. So that's your testimony now. So now it all depends on the

1 detainee, and it's not necessarily the counselor knows ----

2 A. It's going to be different for everybody, sir. He might  
3 not act different for anybody.

4 Q. Okay. So as you sit there now just so I know your  
5 testimony, who do you think would know the detainee the best on  
6 average out of the brig staff?

7 A. Talking him as a personality? Him as his conduct -- his  
8 behavior?

9 Q. I'm talking -- you take any detainee, who would you say on  
10 the brig staff would know the detainee on average -- if you said, in  
11 general I'd say that this is the person you'd want to go to. They  
12 have probably the best source of information. So who would you focus  
13 on as being the source of the most reliable information?

14 A. It really depends on that detainee, sir. I mean you can  
15 talk about one prisoner ----

16 Q. Take out the depending on the detainee. I'm saying in  
17 general. So we're not talking specifics.

18 A. You can never -- you can never point to just one billet or  
19 one person.

20 Q. You can't?

21 A. No, sir. There might be a prisoner that feels real  
22 comfortable speaking with the brig supervisor more than anybody, and  
23 the brig supervisor may know him ----

1 Q. You're getting specifics on me now again. I'm just saying  
2 in general. Like in general I would go maybe to the guards as the  
3 best source. Or in general I would go maybe to the brig  
4 psychiatrist.

5 A. In general you'd go to everybody, sir, and get a full  
6 picture.

7 Q. Okay. I'll go at this one more time and then I'll give up  
8 asking this question. If you had to go to one person on the staff,  
9 who would you go to in general to say that this would be the best  
10 source of information?

11 A. It's going to depend on that specific detainee that you're  
12 going to talk about, sir.

13 Q. All right. I'll give up on that question. Okay, so you  
14 were there when PFC Manning was in-processed, correct?

15 A. No, sir.

16 Q. You weren't?

17 A. When he was actually received -- when he walked into the  
18 door for the first time?

19 Q. Right.

20 A. No, sir.

21 Q. You weren't part of the in-processing and took -- and did  
22 the initial counseling with him when he came in on the 29th?

23 A. Initial counseling happens the following day, sir.

1 Q. Okay, so you say the first time you saw him was on the  
2 30th?

3 A. Yes, sir, that I remember. Yes, sir.

4 Q. All right, do you recall what time he came in?

5 A. It was evening time, sir.

6 Q. What time was that?

7 A. Eating time, sir.

8 Q. Eating time?

9 A. Evening.

10 Q. Evening?

11 A. Yes, sir.

12 Q. Okay, I thought you said eating time.

13 A. No, no, evening time, sir.

14 Q. And in general what time period would you say that might  
15 be?

16 A. After evening chow, sir.

17 [Pause]

18 Q. The initial custody classification form --

19 A. Yes, sir.

20 Q. -- at what stage in the process is that filled out by the  
21 detainee and the individual that's doing it when they come in for  
22 their initial processing?

23 A. Once they're -- initial contact, sir. So before they're

1 ever even -- gears even done, before they ever make it down to the  
2 housing area, it's -- it's truly the initial contact, sir.

3 CDC[MR. COOMBS]: All right, so I'm handing you what's been  
4 marked Appellate Exhibit 435 Charlie [handing the document to the  
5 witness].

6 Q. And as you look at that -- that -- is that the first thing  
7 that's filled out when -- when a detainee comes?

8 A. It's part of the initial entire package, sir. What order  
9 the PBS fills out -- which piece of paper, I'm not sure, but this is  
10 part of the original package.

11 Q. Okay. And can you turn to the second page and see is there  
12 a time period when the form is filled out?

13 A. [Looking at the document] 2200, sir.

14 Q. And from you experience would 2200 then reflect probably a  
15 pretty accurate time of generally when PFC Manning arrived at the  
16 brig?

17 A. Yes, sir, he probably arrived within 60 minutes of that  
18 time. I mean, the confinement order's going to say the exact time  
19 he's accepted. But it's -- that's close.

20 CDC[MR. COOMBS]: I'm retrieving Appellate Exhibit 435 Charlie  
21 from the witness [retrieving the document from the witness].

22 Q. So with regards to your interview of him, do you remember  
23 specifically doing an interview and asking him about the nooses in

1 Kuwait?

2 A. Yes, sir.

3 Q. When you asked PFC Manning about the nooses he didn't  
4 immediately say anything to you, right?

5 A. No, sir. He answered the question. I asked him about one  
6 noose.

7 Q. All right, but you actually asked him about the nooses, he  
8 didn't respond, and you said that he looked at you. And in your  
9 words you said he looked at you all retarded. Do you recall saying  
10 that?

11 A. Probably, sir. I mean that -- I very well may have.

12 Q. And by "all retarded" what did you mean?

13 A. Just like dumbfounded -- doesn't -- doesn't know what I'm  
14 talking about.

15 Q. And, in fact, didn't PFC Manning ask you what you were  
16 talking about at that point?

17 A. He -- because I said a bed sheet. And he said I didn't  
18 make any noose out of a bed sheet. And then he said he made it out  
19 of sandbag ties. I don't remember his quote, but.

20 Q. Okay, and to your recollection then when he said he didn't  
21 make a noose out of a bed sheet, he made it out of sandbag ties,  
22 that's when you believe no one in their right mind confuses a bed  
23 sheet with sandbag ties, correct?

1           A.    Correct, sir.

2           Q.    And you were thinking that at that point he must have made  
3 two nooses then?

4           A.    Yes, sir.

5           Q.    And right from the beginning you -- for you that was a red  
6 flag that was raised?

7           A.    Yes, sir.

8           Q.    For the first couple of weeks nothing was changing because  
9 not only how he was received on suicide risk but also because of this  
10 comment to you, correct?

11          A.    Yes, sir.

12          Q.    And then the always planning, never acting comment that he  
13 wrote on his intake --

14          A.    [Responded in the affirmative.]

15          Q.    -- is that correct?

16          A.    Yes, sir.

17          Q.    Those things weighed heavily on your mind?

18          A.    Yes, sir.

19          Q.    And you indicated on direct at least that you asked him  
20 about the always planning, never acting?

21          A.    Yes, sir.

22          Q.    And I note and we'll go through a lot of your observation  
23 and evaluation notes and the other documents, but that's not



1 documented anywhere. Can you tell me why?

2 A. Because I don't document every -- every question I ask and  
3 every answer I receive, sir.

4 Q. But wouldn't you agree with me just as a general  
5 proposition that this isn't your typical question? I mean this is  
6 kind of a big point here, wouldn't you agree?

7 A. Yes, sir.

8 Q. So if a detainee I think as you said on direct that when  
9 they do something like this, you know, you don't take it as sarcasm,  
10 right?

11 A. Correct, sir, I don't interpret sarcasm.

12 Q. It's not a joke?

13 A. No, sir.

14 Q. All right, so then when he says always planning, never  
15 acting, you would agree with me that that from a counselor's  
16 standpoint is a big comment?

17 A. Yes, sir.

18 Q. And so when you talked to him -- you said on direct -- he  
19 did what when you talked to him about that?

20 A. I asked him what he meant by that or what that means -- I  
21 can't remember the quotes. I don't remember his quote and his  
22 answer, but basically it was what it says, he's just planned by he's  
23 never acted. He's never actually attempted suicide.

1 Q. And that's what you said he told you?

2 A. Yes, sir, words to that effect.

3 Q. And so I guess if someone -- if that's true and he tells

4 you, hey, I've been planning, I've just never acting, did you follow

5 up on that by saying what do you mean by planning? What you been

6 doing? What'cha thinking about?

7 A. I probably ask him did he ever -- did you make a plan -- if

8 you made a plan was -- was it a plan of I'm going to kill myself or

9 did I come up with a method --

10 Q. Right.

11 A. -- words to that -- words to -- that was probably part of

12 the conversation, sir. I can't remember specifically.

13 Q. And if he's saying always planning, did you -- did you then

14 say, well, are you planning now? Did you ask him that question?

15 A. I may have, but I don't remember specifically, sir.

16 Q. You don't remember asking that?

17 A. Not specifically, no, sir. I remember asking him if he was

18 currently suicidal.

19 Q. But I'm -- sticking on this statement, if someone's saying

20 always planning, wouldn't that be something you'd want to know if

21 they're planning currently?

22 A. Probably, sir.

23 Q. And wouldn't you want to document it if they said yes, and

1 then what they're planning and how they're planning to do things?

2 A. What I would document is if he's currently -- if I -- when  
3 I asked him if he's currently -- are you suicidal right now? That's  
4 what I would document.

5 Q. All right, but you wouldn't document him responding yes,  
6 I'm always planning and even planning right now?

7 A. Depends on how I'm writing, sir. I mean, when I'm writing.

8 Q. Okay. So let's -- let's go to your weekly reports for a  
9 moment. One of your requirement -- requirements was to write up a  
10 weekly observation and evaluation note or notes on your meetings with  
11 PFC Manning, correct?

12 A. Yes, sir.

13 Q. And this was called by what you told me "The Manning  
14 Report"?

15 A. Yes, sir.

16 Q. Information in your reports was -- and from your session  
17 then was from talking to PFC Manning, correct?

18 A. Yes, sir. The report evolved as time went on. But --  
19 yeah, it would -- my interactions with him would be in there.

20 Q. And you would also obtain information from the brig guard?

21 A. Yes, sir, any kind of documentation that was there --  
22 interaction with the staff -- I'd just walk down -- the guys posted  
23 in special quarter, how's Manning been -- take a look at the logbook.

1 Q. And you'd record any information you got?

2 A. Anything noteworthy, sir. Anything that's listed in the  
3 logbook I'd put in there. I wouldn't -- I mean, if they're like,  
4 yeah, he's -- you know, he's been fine. I'm wouldn't write he's been  
5 fine. I'd just write there's like no unusual occurrence or something  
6 like that.

7 Q. Okay. And then you -- you would take all those  
8 observations and you'd put them into a -- your weekly observation and  
9 evaluation notes, the general format, but then that would be put into  
10 a weekly report that Chief Averhart and subsequently Chief Barnes  
11 would forward up the chain of command, right?

12 A. Eventually, sir, that's not how the report started  
13 initially -- because this report started before the logbook came  
14 around. But -- so the report evolved.

15 Q. I'm sorry, you confused me there. You know, the weekly  
16 reports ----

17 A. Correct, sir ----

18 Q. ---- up the chain of command started ----

19 A. ---- when ----

20 Q. ---- on the 10th of August, right?

21 A. ---- the weekly report began even before anybody knew he  
22 was doing these odd -- odd behaviors. So those odd behaviors  
23 wouldn't be in the very first few weekly reports.

1 Q. I'm not asking about odd behaviors. I'm just -- simply  
2 saying once you did your eval' with PFC Manning, you got whatever  
3 information from the other brig staff, that would be put into the  
4 weekly report that Chief Averhart would forward up the chain of  
5 command?

6 A. Yes, sir, but the report evolved as time went on.

7 Q. Okay. So in any event then, once that report went up from  
8 Chief Averhart, it went to Colonel Oltman?

9 A. Yes, sir.

10 Q. And then from Colonel Oltman to Colonel Choike, the Base  
11 Commander?

12 A. I'm assuming at that point, yes, sir.

13 Q. And when -- we know -- actually you knew that from your  
14 email, where you assumed was that it was going from Colonel Choike to  
15 General Flynn, correct?

16 A. Yes, sir. I mean, once it go to the powers to be I didn't  
17 really -- I don't know where the thing went.

18 Q. And you also told me -- told me that you assumed that it  
19 was going up to Headquarters Marine Corps or the Pentagon?

20 A. I assume so, sir. I mean I ----

21 Q. And that's what you assumed, right?

22 A. Yes, sir, I mean who -- who -- who knows where this damn  
23 thing was going.

1 Q. Well the reason why you believed it was going up to  
2 Headquarter Marine Corps or the Pentagon was because based upon the  
3 word that you were receiving -- that was coming down?  
4 A. Probably, sir. I don't really remember, but.  
5 Q. And you also knew it was going up to the higher ups based  
6 upon the visits that you were receiving at the brig, correct?  
7 A. Yes, sir. I mean, they weren't showing up just because  
8 they wanted to.  
9 Q. Right. These were visits from Headquarters Marine Corps?  
10 A. Yes, sir.  
11 Q. From the IG?  
12 A. Yes, sir. Later on in the months, yes, sir.  
13 Q. Yeah, and you said -- you told me that these people don't  
14 show up just for the hell of it, right?  
15 A. No, they don't serve in the camp, but they -- they don't.  
16 Q. And so this was unusual to see these types of people  
17 showing up?  
18 A. Yes, sir. Not Headquarters Marine Corps. But the IG, Mr.  
19 Work, General Ary -- you know, that's not normal.  
20 Q. And someone in your chain of command directly told you that  
21 Lieutenant General Flynn had his eyes on the Manning case, correct?  
22 A. Probably.  
23 Q. And you also told me that other than PFC Manning you guys

1 never did a weekly report that you would forward up on a detainee?

2 A. No, sir.

3 Q. So Manning was the only one that this would have happened?

4 A. For a weekly? Yes, sir. There's been progress reports  
5 before but not -- not weekly.

6 Q. Right. Okay, so what I'd like to do now is go through some  
7 of your weekly observations that were used and reported up the chain  
8 of command, okay?

9 A. Okay, sir.

10 CDC[MR. COOMBS]: All right, I'm showing you Enclosure 22 to  
11 Appellate Exhibit 259 [handing the document to the witness]. I'll  
12 just let you hold onto the copy.

13 Q. And what I'd like to do is kind of go through a few things  
14 with you, all right?

15 A. Yes, sir.

16 Q. All right, if you'll turn to -- just to Page 1, this is the  
17 10 August 2010 report, but this is when -- this is one of your first  
18 times -- actually, it is your first time really as a counselor for of  
19 PFC Manning, correct?

20 A. [Looking at the document] Yes, sir.

21 Q. And if you look at this, your notes indicate that PFC  
22 Manning arrived, of course, on 29 July 2010?

23 A. Yes, sir.

1 Q. And from 29 July 2010 to 10 August 2010, you indicate that  
2 PFC Manning didn't receive any disciplinary reports?

3 A. [Looking at the document. No response.]

4 Q. If you're looking for it, it carries over to Page 2. See  
5 where it says SND did not receive any disciplinary reports?

6 A. [Looking at the document.]

7 Q. And you also stated he did not receive any adverse spot  
8 evaluations?

9 A. Correct, sir.

10 Q. And you reported he received an average work and training  
11 report?

12 A. Yes, sir.

13 Q. You describe PFC Manning as being quiet, but courteous and  
14 respectful?

15 A. Yes, sir.

16 Q. And record that "To this point in confinement, PFC  
17 Manning's conduct has been average and has presented to problems to  
18 staff or inmates"?

19 A. [Looking at the document] Correct, sir.

20 Q. You also document that PFC Manning speaks very little  
21 unless responding to a question?

22 A. Correct, sir.

23 Q. And even though he doesn't speak a lot you state that he is



1 well spoken, neat in appearance, and maintains eye contact?

2 A. Yes, sir.

3 Q. And you talked to him at this point about the types of jobs  
4 that he could have if he were ever taken off of MAX and POI, correct?

5 A. Probably, sir -- yes, sir, the library.

6 Q. And PFC Manning did express interest in -- in perhaps  
7 working in the brig library?

8 A. Yes, sir.

9 Q. And you concluded from your report basically by saying that  
10 PFC Manning reported to you that he didn't have any suicidal  
11 feelings?

12 A. Correct, sir.

13 Q. So in this first week it's fair to say that you really  
14 didn't have any issues with PFC Manning?

15 A. Not disciplinary, sir, no.

16 Q. Or just issues in general?

17 A. Naw. He was -- at this point there's nothing.

18 Q. All right, so let's go ahead and go now to Page 4. This is  
19 the 18 August 2010 report.

20 [The witness looked at the document.]

21 Q. During this week, again, PFC Manning did not receive any  
22 disciplinary reports?

23 A. [Looking at the document] Correct, sir.

1 Q. He did not receive any adverse spot evaluations?  
2 A. No, sir.  
3 Q. He received an average work and training report?  
4 A. Yes, sir.  
5 Q. And you describe PFC Manning as presenting no problems to  
6 the staff?  
7 A. [Looking at the document] Yes, sir.  
8 Q. And you state that PFC Manning was showing signs of  
9 adjusting to confinement well?  
10 A. Yes, sir.  
11 Q. You describe him as being well spoken, courteous, and  
12 respectful?  
13 A. Yes, sir.  
14 Q. You also describe him as being neat in appearance and  
15 maintaining eye contact?  
16 A. Yes, sir.  
17 Q. And finally, again, you document that he's telling you that  
18 he's not suicidal and has not been suicidal since arriving at  
19 Quantico?  
20 A. Yes, sir.  
21 Q. So in this second week it's fair to say no issues with PFC  
22 Manning?  
23 A. Correct, sir.

1 Q. Let's move on to Page 7.  
2 [The witness looked at the document.]  
3 Q. This is your 25 -- well, actually your 24 August 2010  
4 report, correct?  
5 A. [Looking at the document] 25 August, sir.  
6 Q. Well that's the report going up. But you actually saw PFC  
7 Manning on 24 August, correct?  
8 A. Yes, sir.  
9 Q. And during this week PFC Manning did not receive any  
10 disciplinary reports?  
11 A. No, sir, he never received a disciplinary report.  
12 Q. He didn't receive any adverse spot evaluations?  
13 A. No, sir.  
14 Q. And he received an average work and training report?  
15 A. Yes, sir.  
16 Q. And during this week you reported that PFC Manning had  
17 presented -- "Presented no problems and have been courteous and  
18 respectful to the staff"?  
19 A. [Looking at the document] Correct, sir.  
20 Q. You also noted that PFC Manning will answer direct  
21 questions with direct answers, but says very little otherwise?  
22 A. Yes, sir.  
23 Q. You describe his conduct as being excellent, so much so,

1 that it's apparent that he's extremely cautious about what he says or  
2 how he acts?

3 A. Correct, sir.

4 Q. You document that during your interview with PFC Manning,  
5 he's well-spoken and neat in appearance?

6 A. Yes, sir.

7 Q. And, again, he hasn't been suicidal -- or at least  
8 reporting that he hasn't been suicidal and hasn't been suicidal since  
9 arriving at Quantico?

10 A. Correct, sir.

11 Q. So this third week it's fair to say no issues with PFC  
12 Manning?

13 A. No conduct issues, no, sir.

14 Q. All right, let's go to Page 10.

15 [The witness looked at the document.]

16 Q. This is your 30 August 2010 interview report, correct?

17 A. Yes, sir.

18 Q. And during this week, again, as you said no disciplinary  
19 reports for PFC Manning?

20 A. [Looking at the document] No, he never received a  
21 disciplinary report.

22 Q. No adverse spot evaluations?

23 A. No, sir.

1 Q. And now an above average work and training report?

2 A. Yes, sir.

3 Q. You -- do you recall as a counselor why he received an  
4 above average work and training report?

5 A. I can say, sir, this is -- now the third one of these that  
6 we've gone through, and there's three security sections that work,  
7 that means the person that -- the guard that's on duty on Sunday  
8 nights does the work and training report. In this guard's opinion he  
9 was above average. Don't know if he's been anything different over  
10 the last three weeks, but in this guard's opinion, he's above  
11 average.

12 Q. Okay, so -- how -- how does guard make a determination on  
13 whether somebody's an average, above average, below average?

14 A. First it's going to be has he been a discipline problem?

15 Q. Okay.

16 A. I mean, those things are documented. But outside of that,  
17 sir, I mean I can't speak intelligently on everybody's opinion and  
18 how they form their opinion, sir.

19 Q. No, I just want to understand the process. So like if  
20 somebody's reported as receiving an above average, how does one ----

21 A. Believes he's above average?

22 Q. Well, how does one get that if they're a detainee at the  
23 confinement facility? Is it just one guard's opinion or is there

1 some sort of form that's filled out or anything like?

2 A. There's a work/training report that's filled out. But, I  
3 mean, there's nothing that says this -- this is above average; you  
4 have to meet this criteria to be above average. And you have to meet  
5 this criteria to be average. That was opinion.

6 Q. As a counselor looking at that is that significant to you  
7 at all -- the work and training report?

8 A. It is. I mean it holds its place.

9 Q. And how so?

10 A. I'm more concerned about negative stuff, sir, as far as,  
11 you know -- if somebody gets an average, above average, excellent  
12 work and training report; that's great. I don't have to look.  
13 There's not going to be any kind of documentation saying this guy was  
14 awesome except for maybe a positive spot evaluation. But -- you  
15 know, now if I'm seeing this guy's been a discipline problem,  
16 receiving disciplinary reports, that's more of a cause for concern.  
17 I don't have to sit here and say, hey, why are you being so great? I  
18 have to sit here and say, hey, you're receiving discipline reports.  
19 What's the problem?

20 Q. Okay, so if someone's doing really good; you really don't  
21 have to spend time on that, but if someone's doing bad; that's when  
22 you have to spend some time on it?

23 A. I don't have to -- I don't have to fix an issue that's

1 making somebody good.

2 Q. Okay.

3 A. I don't have to help somebody correct good behavior.

4 Q. Right. So then you report in this that PFC Manning was  
5 courteous and respectful to the staff?

6 A. [Looking at the document] Yes, sir.

7 Q. And he presented to problems towards the staff?

8 A. Correct, sir.

9 Q. And you note that he is doing well but otherwise remains  
10 quiet?

11 A. [Looking at the document] Yes, sir.

12 Q. You say, again, he's quiet because he's basically -- he  
13 only speaks if he's spoken to first. And then when he's spoken to he  
14 responds in short answers?

15 A. Yes, sir.

16 Q. And you report that, again, PFC Manning's telling you he's  
17 not suicidal and has not been suicidal since arriving at Quantico?

18 A. Correct, sir.

19 Q. So in this fourth week as his counselor any issues with PFC  
20 Manning?

21 A. No, not -- not comment wise, no.

22 Q. Also at this time you get and you report in your counseling  
23 notes that this is when Captain Hocter recommends that PFC Manning be

1 removed from POI status -- this is 27 August 2010, correct?

2 A. Yes, sir.

3 Q. And you also document that the C&A board met on that same  
4 day and recommended that he remain in POI?

5 A. Yes, sir.

6 Q. Now up to this point I'm looking -- and I'm seeing a lot of  
7 basically good behavior, no issues ----

8 A. Yes, sir.

9 Q. ---- and you have a doctor saying now that he can come off  
10 of POI. Can you tell me why the board recommended keeping him on MAX  
11 and POI?

12 A. I can tell you why I recommend it.

13 Q. All right.

14 A. I was getting next to no communication from him. That's --  
15 that ----

16 Q. Well, at this point though I don't see anything in your  
17 counseling notes that -- that says you're really concerned about  
18 that.

19 A. Sir, me annotating that he answers questions directly,  
20 remains quiet, doesn't speak unless spoken to, that -- that's  
21 concern. I mean I ----

22 Q. So if I'm the -- if I'm the Brig Commander and I'm looking  
23 at your evaluation notes, I look at that and I see, oh, that's a



1 reason why we need to be concerned because he's quiet and speaks when  
2 spoke to?

3 A. No, sir. I'm making my recommendation at this point. And  
4 -- so at this point, again, he has his history like the whole --  
5 Kuwait; made the noose, always planning, never acting -- just when I  
6 say the history I'm talking about these types of things.

7 Q. But now you -- you said you had problems communicating with  
8 him ----

9 A. Correct, sir.

10 Q. ---- so wouldn't you agree with me that as the counselor  
11 that's a problem? If you think that's a problem that that should be  
12 in your evaluation notes?

13 A. It could be, sir. I mean, that depends on ----

14 Q. No -- but I'm not saying could be. I'm saying would you  
15 agree with me that should be?

16 A. No, I wouldn't agree with you, sir.

17 Q. And why not?

18 A. Because there's nothing saying what has to go in this  
19 report.

20 Q. Well I'm not saying anything has to. I'm just saying you,  
21 as a counselor, wouldn't you think that if you believed that I'm not  
22 establishing rapport with this guy that that would be something you  
23 would put in your counselor's notes?

1           A.    Sir, if I -- if I -- if I -- if I didn't put it in the  
2 report it was either because I didn't think -- I either didn't think  
3 to put it in there, I didn't think I needed to put it in there, and I  
4 wasn't required to put it in there.

5           Q.    That's your answer?

6           A.    That's my answer, sir.

7           Q.    Okay. So then -- let's go ahead, I guess, and move on Page  
8 13.

9           [The witness looked through the document.]

10          Q.    This is your 7 September 2010 report. During this week,  
11 again, no disciplinary reports, no adverse spot evaluations, and an  
12 average work and training report, correct?

13          A.    [Looking at the document] Yes, sir.

14          Q.    And, again, you note that he's doing well but remained  
15 quiet?

16          A.    Yes, sir.

17          Q.    And you also noted that he continues to be very short and  
18 direct with responses when speaking with staff?

19          A.    Yes, sir.

20          Q.    You also indicate that he started reading during the day to  
21 pass the time, but only educational books, correct?

22          A.    Yes, sir.

23          Q.    And also you note that on 3 September he was evaluated by a

1 brig psychiatrist and recommended to be removed from POI?

2 A. Yes, sir.

3 Q. And the board met that same day and recommended that he  
4 remain on POI?

5 A. Yes, sir.

6 Q. You state that he "Continues to be cooperative with brig  
7 staff and presents no disciplinary issues"?

8 A. Correct, sir -- disciplinary problems.

9 Q. And you also said that he's well-spoken and neat in  
10 appearance?

11 A. Yes, sir.

12 Q. Then here you say his mood and appearance were consistent  
13 with his normal character?

14 A. Yes, sir.

15 Q. So at this point when you've had now a little over a month  
16 and -- and a few days to evaluate him, is it possible that you're  
17 just looking at a guy who's just a quiet guy?

18 A. It is possible, but that's not how I felt, sir.

19 Q. Is it possible that you're looking at a guy that's quiet  
20 when he is talking to individuals that he perceives as staff as  
21 opposed to friends?

22 A. It's possible, sir, and maybe what it was, but I still  
23 wasn't getting -- it didn't seem right.

1 Q. And why didn't it seem right to you at this point?

2 A. Because, sir -- Manning, how are you doing? Yes, Gunnery

3 Sergeant [speaking very quickly]. No, Gunnery Sergeant [speaking

4 very quickly]. Aye, aye, Gunnery Sergeant [speaking very quickly].

5 Just -- it's not the feeling I got when he answered.

6 Q. Well what type of response to -- I mean you're talking

7 about various things -- we'll get to some of the longer conversations

8 you had with him once you got into a topic that he wanted to talk

9 about, but what are you getting from him or not getting from him that

10 you're getting from other detainees?

11 A. Usually if you get somebody who's just shy, quiet, just

12 doesn't want to -- oh, I'm doing good [speaking in a calm submissive

13 voice]. No, okay, Gunnery Sergeant [speaking in calm submissive

14 voice]. Like it seemed just so hurry up, answer your questions, go

15 on.

16 Q. Why would you say here is mood and ----

17 A. Like -- like -- not just ----

18 Q. ---- appearance were consistent ----

19 A. ---- I'm not communicating; I don't want to communicate.

20 Q. ---- Gunny Sergeant, why would you -- excuse me, Master

21 Sergeant, why would you state that his mood and appearance were

22 consistent with his normal character then?

23 A. Because he never communicated with me, and he still hasn't

1 communicated with me at that point. Outside of direct answers and  
2 questions, that was what he was normally doing. Normally if I went  
3 down there and I talked to him, short direct questions -- that's it.  
4 Answer the question that was asked and that's it.

5 Q. And give me an example of that in a -- that exchange. So  
6 what you say and then what PFC Manning says back to you.

7 A. Did you receive a command visit last week [speaking very  
8 quickly]? Yes, Gunnery Sergeant [speaking very quickly]. You doing  
9 okay? Good, Gunnery Sergeant [speaking very quickly].

10 Q. And now stop. What did you want him to say? What do you  
11 think that you -- he should be saying to you?

12 A. Well it's the way it's said, too. You know -- Battery  
13 command visit last week [speaking in a slower calmer voice]. You  
14 know -- they came. Hey, they take care of you? Everything taken  
15 care of? Oh, I'm fine, you know [speaking in a calm voice].  
16 Sometimes they say who came and saw them. Or, yeah, I got -- I don't  
17 know if he got a visit the week before this one or not, oh, yeah, my  
18 mom came to visit me or whatever -- a little bit more elaboration.  
19 Not just -- I'm answering your question -- short direct, hurry up and  
20 move on [speaking quickly].

21 Q. All right, so he wasn't ----

22 A. No -- no content to the conversation.

23 Q. ---- if he had a little more elaboration then you -- that

1 was something you were looking for?

2 A. If he engaged in a discussion, yes, sir.

3 Q. Okay, so let's look at Page 16 of 109.

4 [The witness looked through the documents.]

5 Q. This is your 14 September report. Here you indicate that

6 PFC Manning was visited by his father that weekend. And he described

7 his relationship with his father as being distant?

8 A. [Looking at the document.] Yes, sir.

9 Q. So he's talking to you apparently about his relationship

10 with his father?

11 A. A little bit, yes, sir.

12 Q. And then he also tells you about the fact that he learned

13 that his grandmother passed away?

14 A. Yes, sir.

15 Q. So he's talking to you about family issues?

16 A. Yes, sir.

17 Q. Now just as other times, no adverse spot evaluations, no

18 disciplinary reports, and average work and training reports, correct?

19 A. [Looking at the document] Yes, sir.

20 Q. And you said everything's going well with him but, again,

21 he remains quiet?

22 A. Correct, sir.

23 Q. He was very short and direct with his responses and didn't

1 initiate conversation with you?

2 A. Correct, sir.

3 Q. He told you that he had been reading a little more, but not  
4 much, and prefers actually watching the television -- the news?

5 A. Yes, sir.

6 Q. You reported that he had been cooperative with the brig  
7 staff and presented no disciplinary or behavioral problems?

8 A. Yes, sir.

9 Q. You said when he's observed in his cell he's always sitting  
10 quietly on his rack?

11 A. Yes, sir.

12 Q. When he spoke to you he was well-spoken and neat in  
13 appearance?

14 A. Yes, sir.

15 Q. You said his mood and appearance were consistent with his  
16 normal character?

17 A. Yes, sir.

18 Q. Again, nothing out of the ordinary?

19 A. He's starting to talk to me a little bit more. But as far  
20 as conduct, no, he's not.

21 Q. And during this week, again, he continues to state that  
22 he's not suicidal?

23 A. Yes, sir.

1 Q. And you document that he was seen by Captain Hocter on 10  
2 September?

3 A. Yes, sir.

4 Q. And based upon that you document that Captain Hocter  
5 recommended, again, to remove him from POI?

6 A. Yes, sir.

7 Q. And that same day the C&A board decided that PFC Manning  
8 should remain in POI?

9 A. Correct, sir.

10 Q. Let's move to your 20 September. This is on Page 19.  
11 [The witness looked through the document.]

12 Q. During this time PFC Manning tells you he had two visitors  
13 during the week?

14 A. [Looking at the document] Yes, sir.

15 Q. And I apologize. Actually let's just go ahead and skip to  
16 Page 22.

17 [The witness looked through the document.]

18 Q. On this -- this is your 27 September evaluation?

19 A. [Looking at the document] Yes, sir.

20 Q. And, again, PFC Manning talks about his aunt and how she's  
21 doing based upon the passing of his grandmother?

22 A. Yes, sir.

23 Q. He doesn't receive any adverse spot evaluations,



1 disciplinary reports, and receives and average work and training  
2 report, correct?

3 A. Yes, sir.

4 Q. Again, everything's fine. He's just, again, remaining  
5 quiet?

6 A. Yes, sir.

7 Q. You say he continues to be very short and direct with his  
8 responses --

9 A. Yes, sir.

10 Q. -- and doesn't initiate conversation?

11 A. Correct, sir.

12 Q. But he did talk to you about a dental visit that he wanted  
13 to schedule?

14 A. Yes, sir.

15 Q. And when he did speak to you, you said he was well-spoken  
16 and neat in appearance?

17 A. [Looking at the document] Yes, sir.

18 Q. You said his mood and appearance were consistent with his  
19 normal character?

20 A. Yes, sir.

21 Q. And he continues to state that he's no suicidal?

22 A. Yes, sir.

23 Q. He was saw -- was seen by Captain Hocter on that -- on 24

1 September, correct?

2 A. Yes, sir.

3 Q. And recommended to be removed from POI?

4 A. Yes, sir.

5 Q. And on that same day you recommended that he remain on POI?

6 A. Correct, sir.

7 Q. Let's go to Page 25.

8 [The witness looked through the document.]

9 Q. This is your 6 October 2010 -- or actually your 4 October

10 2010 with the report, correct?

11 A. Yes, sir.

12 Q. And just like all the other ones; no adverse spot

13 evaluations, no disciplinary reports, and an average work and

14 training report?

15 A. [Looking at the document] Yes, sir.

16 Q. He told you that he was doing well and had begun another

17 book to read?

18 A. Yes, sir.

19 Q. You say that PFC Manning did not initiate conversation and

20 continued to use short answers?

21 A. Yes, sir.

22 Q. You also reported that he appears to content with his

23 situation and goes through the motions of the brig's plan of the day

1 without incident?

2 A. Yes, sir.

3 Q. When he speaks to you he's well-spoken, neat in appearance  
4 and maintains good eye contact?

5 A. Yes, sir.

6 Q. Again, you document that his mood and appearance were  
7 consistent with his normal character?

8 A. Yes, sir.

9 Q. He continues to state that he's not suicidal?

10 A. Yes, sir.

11 Q. And is reviewed on 1 October by Doctor Hocter, and  
12 recommended to be removed from POI?

13 A. Yes, sir.

14 Q. And the board recommended that he remain on POI?

15 A. Yes, sir.

16 Q. Now go to Page 28.

17 [The witness looked through the document.]

18 Q. This is your 12 October 2010 report?

19 A. [Looking through the document. No response.]

20 Q. Is that correct?

21 A. Yes, sir.

22 Q. And like others, no adverse spot evaluations, no  
23 disciplinary reports, and average work and training report?

1           A.   [Looking at the document] Yes, sir.

2           Q.   Again, PFC Manning's doing well, but otherwise remains  
3 quiet?

4           A.   Yes, sir.

5           Q.   You said he doesn't show interest in having anything more  
6 than brief conversations with you?

7           A.   Yes, sir.

8           Q.   But he remains courteous and respectful to you and the  
9 staff?

10          A.   Yes, sir, and appears to want minimal contact with the  
11 staff as well.

12          Q.   Right. You document that he wants minimal contact with the  
13 faculty staff and otherwise wants to be left to himself?

14          A.   Yes, sir.

15          Q.   You report that he's well-spoken and neat in appearance?

16          A.   Yes, sir.

17          Q.   And you state that his mood and appearance were consistent  
18 with his normal character?

19          A.   Yes, sir.

20          Q.   Continues to state that he's not suicidal?

21          A.   Yes, sir.

22          Q.   And there was no mental health evaluation that week,  
23 correct?

1       A.    Yes, sir.

2       Q.    And so the -- on 8 October the board just recommended that

3 he remain on POI?

4       A.    Yes, sir.

5       Q.    Let's go to Page 31.

6       [The witness looked at the document.]

7       Q.    This is your 19 October 2010 report?

8       A.    [Looking at the document] Yes, sir.

9       Q.    Again, no adverse spot evaluations, no disciplinary

10 reports, and an average work and training report?

11      A.    Yes, sir.

12      Q.    Again, you say he's doing well but just remains quiet?

13      A.    Yes, sir.

14      Q.    And to provoke conversation, you ask him about mythological

15 creatures at this point?

16      A.    Yes, sir.

17      Q.    And once the subject is brought up, you say the dialog was

18 a normal conversation?

19      A.    Yes, sir.

20      Q.    And the dialog evolved into a conversation about the

21 evolution of man and man's use of the brain?

22      A.    Yes, sir.

23      Q.    And the dialog evolving into that conversation was

1 precipitated by PFC Manning?

2 A. Say again, sir?

3 Q. Yes. When -- PFC Manning was the one who had the  
4 conversation evolved from the mythological creatures to talking about  
5 man's evolution and the use of his brain?

6 A. I don't know how we got to that subject, sir, but it -- I  
7 mean, it was a back and forth conversation.

8 Q. Okay. And you would agree with me at this point now that  
9 PFC Manning is a pretty intelligent young man?

10 A. Yes, sir.

11 Q. And that his main focus, you probably would know at this  
12 point, is computers -- that's what he -- his main interest is?

13 A. I'm not sure if we talked about that at this point or not,  
14 but I may have.

15 Q. Were you aware of the fact that he knew a lot about  
16 computers?

17 A. Yes, sir. How much we talked about it I don't know. But  
18 I'm sure I did.

19 Q. And, in fact, on direct you said that whenever you guys had  
20 the conversation on computers you couldn't -- you couldn't talk  
21 intelligently about it?

22 A. No, sir, who knows -- not a conversation to have.

23 Q. Right. So he had -- he had interests that you did not

1 have, correct?

2 A. Yes, sir.

3 Q. Now you say -- and I just want to take it up right now to  
4 see why you felt that way, but you said that your ability to have a  
5 conversation with PFC Manning -- the only person worse than that was  
6 somebody that you had on death row, is that correct?

7 A. Yes, sir, getting him to talk to me. Yes, sir.

8 Q. So your testimony here today is it's a guy that's been  
9 there for 10 years, and then PFC Manning as the two people that you  
10 had the worse type of conversations with?

11 A. Not the worst type of conversation; hardest to get them to  
12 start talking to me.

13 Q. Okay, so for the death row guy you got his trust by  
14 removing the restraints, and within four to five weeks you were able  
15 to apparently have conversations with him?

16 A. It was four or five weeks into it and then when I had the  
17 restraints removed. Not I removed the restraints and four or five  
18 weeks later he started talking to me. Other way around.

19 Q. Okay, so ----

20 A. After about four of five weeks of him, zero, not wanting to  
21 communicate with me -- here's my answer -- you know, I talked as much  
22 as I want, but I'm not going to talk to you, pal.

23 Q. Right.

1           A.    You know, finally, when we sat down and we talked or  
2 whatever, I told the guards, hey, take these restraints off.

3           Q.    And then he started opening up to you?

4           A.    Not at that moment, but a little bit better. I could  
5 definitely see he was a lot more comfortable.

6           Q.    Okay. And so you've got this guy on death row, 10 years,  
7 and then you've PFC Manning, and I imagine if PFC Manning must have  
8 been then the exception for -- from any other detainee as far as  
9 having the ability to speak to him, right?

10          A.    Yes, sir. He -- he -- he's definitely the hardest to get  
11 into a discussion with.

12          Q.    So why isn't that documented in any of your observation and  
13 evaluation notes?

14          A.    I didn't think to write that down, sir.

15          Q.    You didn't think to write something down as important as,  
16 you know, next to a death row guy, this is the guy that I've had the  
17 worst ability to break, you know, down his fences or break into a  
18 conversation with?

19          A.    No, sir.

20          Q.    That was not important enough to write down for you?

21          A.    I didn't think to write it down. You know, was it  
22 important? Sure it was important. Does it require me to write that  
23 down? No, it's not required for me to write it down. I just didn't



1 put it down.

2 Q. Okay. All right, so at the end of this conversation

3 apparently you give him a copy -- and you testified to this on direct

4 -- the "Alligator River" story?

5 A. Yes, sir.

6 Q. Why'd you choose this story?

7 A. It usually provokes conversation, sir.

8 Q. This story's about values, right?

9 A. Yes, sir.

10 Q. It's basically about a paragraph long and it's about ----

11 A. A lady trying to cross the river; nobody will help her.

12 Q. ---- right?

13 A. Yes, sir.

14 Q. This woman wants to cross the river to see the person she

15 loves, right?

16 A. Correct, sir.

17 Q. And no one's going to help her but one person?

18 A. Correct, sir.

19 Q. And that one person wants something from her?

20 A. Yes, sir.

21 Q. And that is basically to -- to sleep with her, correct?

22 A. Yes, sir.

23 Q. And she goes ahead and engages in that conduct in order to

1 get across the river to see the person she loves.

2 A. Yes, sir.

3 Q. Once she gets there that person finds out what she did and  
4 decides I don't want to have anything to do with you?

5 A. Yes, sir.

6 Q. And then that person then beats up the person that slept  
7 with her, right?

8 A. It's been a while since I read it, but that sounds pretty -  
9 - pretty close, yes, sir.

10 Q. And essentially what happens is every character has done  
11 something wrong, is that correct?

12 A. Yes, sir.

13 Q. And then you're asked to basically rank the characters from  
14 most likable to least likable?

15 A. Yes, sir.

16 Q. And the whole thing is basically a paragraph long?

17 A. Yes, sir. So you engage in a conversation with PFC Manning  
18 about that?

19 A. I don't ever remember following up with him with that -- or  
20 at least getting into a conversation about what he thought about it.  
21 If we did, it was a real short answer. I don't remember what his  
22 response to that was the next week.

23 Q. Yeah, the following week we document that where he talks

1 about that each of the characters and gives you his thoughts and  
2 opinions on each.

3 A. Okay.

4 Q. But you say his responses were brief?

5 A. I don't remember them. So they weren't -- they don't jump  
6 out at me from memory, sir.

7 Q. So when you choose this story, apparently -- am I correct  
8 in assuming that you're trying to spark conversation?

9 A. Yes, sir.

10 Q. And it may be that the two of you don't have other things  
11 that you can talk about?

12 A. At this point, no, sir, we really haven't gotten into much  
13 of a conversation of, you know, many things.

14 Q. Have you ever had somebody that just in general, not in  
15 your work relationship, but just somebody in general you didn't have  
16 a lot in common with?

17 A. Sure they're out there, sir, for everybody.

18 Q. Right. And so you don't have much in common with them so  
19 you don't have much to say to them?

20 A. Correct, sir. And I don't keep trying to talk to them  
21 either.

22 Q. Exactly. Now in this situation, PFC Manning didn't have a  
23 choice who his counselor would be, right?

1           A.    He could have asked for a different one. I mean, but no he  
2 didn't have an initial choice and nobody asked him who he wanted.

3           Q.    And if you were a computer whiz who knew a lot about  
4 computers do you think your conversation might have been better with  
5 PFC Manning?

6           A.    Who knows, sir, I was still a staff member.

7           Q.    Okay, let's continue on this report. You indicate that  
8 he's only read two books since his arrival at this point, right?

9           A.    Yes, sir.

10          Q.    You say that he's respectful, courteous, and well-spoken?

11          A.    Yes, sir.

12          Q.    And his demeanor was consistent with his normal character?

13          A.    Correct, sir.

14          Q.    He continues to state he's no suicidal?

15          A.    Yes, sir.

16          Q.    And you document that Captain Hocter on 15 October  
17 recommends removal from POI?

18          A.    Yes, sir.

19          Q.    And then the board says, no, keep him in POI?

20          A.    Yes, sir.

21          Q.    At this point are you aware of him perhaps receiving  
22 magazine subscriptions that he might want to read?

23          A.    I don't know if he was receiving it or not or if he brought

1 up he wanted it to come in. But eventually, yes, he did get a  
2 magazine -- like Popular Science or something -- magazine.

3 Q. Scientific American, is that sound about right?

4 A. That's -- that's probably it.

5 Q. And have you ever looked at Scientific American?

6 A. Just from what he showed me from walking through -- you  
7 know, walking through -- if he was looking at a magazine -- he'd talk  
8 about the magazine maybe or at least tried to anyway.

9 Q. And you would agree with me that that magazine is something  
10 that has kind of heavier pieces in it, correct?

11 A. What do you mean, sir?

12 Q. It's not a fluff magazine.

13 A. I've never read it, sir. So I don't know if it's got fluff  
14 in it or not.

15 Q. Okay. That's because that magazine doesn't interest you, I  
16 guess?

17 A. Sir, I ain't got a lot of time to sit around reading  
18 magazines.

19 Q. So let's go ahead and look at the -- Page 34. This is your  
20 27 October 2010 -- actually 25 October 2010 report.  
21 [The witness looked through the document.]

22 Q. Like all others; no adverse spot evaluations, no  
23 disciplinary reports, he receives an average work and training

1 report, is that correct?

2 A. Yes, sir.

3 Q. You state that he's doing well and everything was going  
4 fine?

5 A. [Looking at the document] Yes, sir.

6 Q. And, again, you know, he talks to you about the "Alligator  
7 River" story?

8 A. Yes, sir.

9 Q. And then you talk about some favorite places that he would  
10 like to travel?

11 A. [Looking at the document.]

12 Q. You see where it says he also -- asked him about places he  
13 traveled to and where his favorite places where?

14 A. Yes, sir.

15 Q. And you say he gave brief answers and didn't appear to be  
16 really interested in going in depth with you?

17 A. Yes, sir.

18 Q. But you also report that he showed minimal interest in  
19 interaction and discussion with the staff and still appeared to be  
20 content to be kind of left alone?

21 A. Yes, sir.

22 Q. Even though that was his general way of being, he was  
23 always respectful and courteous, correct?

1           A.    Yes, sir, always stood at parade rest, always used rank,  
2 never disrespectful.

3           Q.    And when spoken to he was well-spoken?

4           A.    Yes, sir, he didn't slur or anything. He spoke well.

5           Q.    His demeanor was consistent with his normal character,  
6 that's what you documented?

7           A.    Yes, sir.

8           Q.    He continued he was not suicidal?

9           A.    Yes, sir.

10          Q.    And on 22 October, Doctor Hocter recommended removal from  
11 POI?

12          A.    Yes, sir.

13          Q.    And on that same day the board recommended that he remain  
14 on POI?

15          A.    Yes, sir.

16          Q.    Now let's go to Page 37.

17 [The witness looked through the document.]

18          Q.    At this point PFC Manning has been in confinement for  
19 approximately three months, correct?

20          A.    [Looking at the document] Yes, sir.

21          Q.    And like all others, no adverse spot evaluations, no  
22 disciplinary reports, an average work and training report?

23          A.    That's correct, sir.

1 Q. You say everything is doing -- he's doing well and  
2 everything was going fine?

3 A. Yes, sir.

4 Q. And he's still basically doesn't have much interest in  
5 engaging in conversation?

6 A. Correct, sir.

7 Q. And we know from the guards that they're not going to  
8 engage in conversation with him because they're just going to tell  
9 him what to do or tell him some information, correct?

10 A. Not always, sir. I mean, guards do speak with other  
11 prisoners. Like they do speak with prisoners, it's not just shouting  
12 directions and corrections and that's it.

13 Q. So in your experience a guard would just stop and shoot the  
14 breeze with a detainee?

15 A. Yes, sir.

16 Q. And that's your testimony?

17 A. Yes, sir. They -- the guards are -- there's nothing wrong  
18 with a guard having a conversation with a prisoner or detainee.

19 Q. Okay, in the interview you note that PFC Manning appeared  
20 to be in high spirits and have a positive attitude?

21 A. Yes, sir.

22 Q. You said he was respectful, courteous and well-spoken?

23 A. Yes, sir.



1 Q. And his demeanor was consistent with his normal character?  
2 A. Yes, sir.  
3 Q. He was not suicidal as far as what he was reporting to you?  
4 A. Correct, sir.  
5 Q. Again, Captain Hocter recommends removal from POI?  
6 A. Yes, sir.  
7 Q. And, again, the board recommends retaining on POI?  
8 A. Yes, sir.  
9 Q. Now let's move to the 10 November -- actual 8 November 2010  
10 report. That's on Page 40.  
11 [The witness looked through the document.]  
12 Q. Like all others; no adverse spot evaluations, no  
13 disciplinary reports, and average work and training report?  
14 A. Yes, sir.  
15 Q. PFC Manning reports to you that he's doing well and has no  
16 concerns at the time?  
17 A. Yes, sir.  
18 Q. You say he's quiet and didn't engage in any conversation  
19 other than how he was doing?  
20 A. Correct, sir.  
21 Q. Continues to show minimal interest in interaction and  
22 discussion with the staff and still appears to be content to be left  
23 to himself?

1 A. Yes, sir.

2 Q. You say that he was respectful, courteous, and well-spoken?

3 A. Yes, sir.

4 Q. His demeanor was consistent with his normal character?

5 A. Yes, sir.

6 Q. And he continues to state to you he's not suicidal?

7 A. Yes, sir.

8 Q. He's evaluated at this point by Doctor Hocter -- he's not

9 evaluated by Doctor Hocter due to a temporary absence, correct?

10 A. Yes, sir.

11 Q. But the board recommends that he remain on POI?

12 A. Yes, sir.

13 Q. Now I could go through all of these as we go -- all the way

14 to the end, but you would agree with me in general that what you

15 document here PFC Manning just being basically quiet, spoken to when

16 spoken -- when asked a question, he responds relatively short in his

17 responses was his average way of being?

18 A. At first, yes, sir, until he started talking to me probably

19 -- probably about that timeframe now; middle of October/November,

20 some timeframe like that he started talking to me more.

21 Q. Okay, and how is he starting to talk to you more at this

22 point?

23 A. What do you mean how's he starting to talk to me more?

1 Q. You said apparently now he's changed. So how's he starting  
2 to talk to you more?

3 A. No, at this -- at this point -- this is about the same  
4 timeframe where he started talking to me more. I don't remember  
5 exactly when, but it was around the beginning of November --  
6 something like that, sir.

7 Q. How -- and how is he talking to you more?

8 A. He's just getting -- getting more of a conversation with  
9 me, sir.

10 Q. Can you tell us in what way has it changed?

11 A. Well, sir, I don't remember now. It was just more -- it  
12 was no longer more short direct quick -- I didn't get the feeling  
13 like he was just trying to hurry up, answer the questions, being as  
14 courteous and respectful as possible, trying to avoid any kind of  
15 correction, just trying to get me to move on my way. He seemed like  
16 he was more -- starting to get more comfortable with me now, talking  
17 to me some more, sir. I mean, I don't remember the conversation.

18 Q. You can't give me an example though?

19 A. Of a conversation, sir?

20 Q. Of how he was more talkative?

21 A. No, sir, he just wasn't so short and direct. And he --  
22 there was dialog.

23 Q. All right, so I want to talk now about your role in the C&A

1 board for a little bit. And we'll come back to these observation and  
2 evaluations, okay?

3 A. Yes, sir.

4 Q. Now you indicated that you were on the C&A board for about  
5 99 percent of the time really?

6 A. Yes, sir. Unless I wasn't there I was -- I was on the  
7 board.

8 Q. So is it fair to say that during the first three and a half  
9 months or so you were on his board just about every week?

10 A. Yes, sir.

11 Q. And the C&A board recommendation, at least the very first  
12 one, was on the Brig Form 4200, but until we get to January of 2011  
13 it's never documented again on a 4200, correct?

14 A. Correct, sir.

15 Q. And other than that date, when we get into January, where  
16 you start to use a different form, we have no real documentation  
17 other than the CORMIS -- the CORMIS report, correct?

18 A. Correct, sir.

19 Q. And why is that?

20 A. And the -- the daily change roster.

21 Q. Why is that? Why didn't you have -- why didn't you  
22 continue to use the Brig 4200 form?

23 A. Because the brig -- that brig form you're talking about,

1 that was used solely for the C&A board when the duty brig supervisor  
2 made a change. It's -- it's a classification and assignment request.  
3 So if I'm the duty brig supervisor and I change a prisoner's  
4 classification, whether it's an initial confinement or someone who's  
5 been there and I change for some reason, like I said, he received a  
6 disciplinary report and I put him pending investigation, that form is  
7 generated because the DBS changed somebody's custody or  
8 classification. And that was the report or the form that was given  
9 to the C&A board because by order the C&A board has to review every  
10 change in a prisoner's custody and classification that's made by the  
11 DBS. So that --

12 Q. Okay.

13 A. -- form. His wasn't changed by the DBS. So that form  
14 wasn't used.

15 Q. So what you're saying is the Brig 4200 form when it notes  
16 what the higher custody factors are and the lower custody factors  
17 from the July 29th one, that that form would only be used if -- if  
18 there was a plan to change somebody's custody status?

19 A. No, if the DBS changed somebody and the C&A board had to  
20 review it for change.

21 Q. All right.

22 A. The commanding officer makes the changes. If I'm the DBS  
23 at nighttime and a guy does something and I separate him and I put

1 him on pending investigation, I've now changed his status 'cause he  
2 used to work on the -- let's say he used to work on the mess deck. I  
3 now, hey, you're no longer working on the mess deck. Now you're  
4 pending investigation. The DBS isn't the final authority on that.  
5 The commanding officer is. So he would change -- he changed the  
6 classification. He sends it up to the C&A board. The C&A board has  
7 to review any change the DBS makes. And then establish the form that  
8 the DBS generates saying, hey, I changed somebody's. Here you go,  
9 here's what I did. We'd review them. Put down a thing and send it  
10 up to the CO.

11 Q. Then ----

12 MJ: What's the number of the form we're discussing?

13 CDC[MR. COOMBS]: It's a brig -- it's Brig Form 4200, ma'am.

14 Q. Why do you go back to that form then, 4200, and now it's  
15 point one, in January? Why in January?

16 A. Because -- at that point Chief Warrant Officer Averhart, he  
17 wanted -- this form changed -- the two major changes to this form  
18 over the months from the 4200 to the 4200.1 was we added all three  
19 members of the C&A board's names on there. And at that point they  
20 wanted -- the CO wanted us to use that for every C&A review, even if  
21 it was a scheduled one ----

22 Q. Okay.

23 A. ---- not just the DBS changing.

1 Q. And why was that?

2 A. Why did he want to change it, sir?

3 Q. Well, yeah, why -- what sparked the interest in January to  
4 all of a sudden make a change to the C&A board? Any idea?

5 A. I'm not exactly sure, sir. If I knew the reason for that  
6 change, I don't remember it.

7 [Pause]

8 CDC [MR. COOMBS]: I'm showing the witness what's been marked  
9 as Appellate Exhibit 435 Delta [handing the document to the witness].

10 Q. Do you recall receiving an email from Chief Averhart on 29  
11 December 2010, telling you that the defense in this case was going to  
12 be receiving all the brig records?

13 A. [Looking at the document] I see I'm -- I'm on the "to"  
14 line, sir. I don't remember receiving this email. But obviously I  
15 got it.

16 Q. Exactly. And 29 July 20 -- or excuse me, 29 December 2010,  
17 when you're notified that the defense was going to start to receive  
18 all of the brig's records, this also coincided with complaints by PFC  
19 Manning and the defense as to his treatment, correct?

20 A. I guess, sir. I don't really remember the complaints  
21 started or not.

22 Q. Do you remember the 130 -- Article 138 complaint coming in?

23 A. Yes, sir. I don't remember when it did -- I -- I remember

1 it coming in.

2 Q. And do you remember in January of 2011 when the Article 138  
3 complaint was filed against Chief Averhart?

4 A. Yes, sir. It was January.

5 Q. Do you remember Chief Averhart asking you to help him draft  
6 his response?

7 A. Yes, sir.

8 Q. A justification for why PFC Manning was in MAX and POI?

9 A. Yes, sir.

10 Q. And then in January, you start using this new Brig 4200  
11 form, correct?

12 A. Correct, sir.

13 Q. And initially this form that you're using doesn't document  
14 anywhere where the detainee -- I'm showing you Page 1 of Enclosure 32  
15 from Appellate Exhibit 259 [handing the document to the witness].  
16 Actually we'll skip to the January one, which would be Page 2. It  
17 doesn't document anywhere on this form where a detainee will make an  
18 election of whether or not they want to appear or not appear before  
19 the board, correct?

20 A. No, sir, that change came after that change.

21 Q. Yeah, so then as the -- as we go forward in time a little  
22 bit, it isn't until PFC Manning does appear before the board the  
23 first time, so we have to go a few weeks, when PFC Manning does elect



1 to come before the board for the very first time on 21 January,  
2 that's the first time that there is a -- a place for an inmate to  
3 choose to either appear or not appear before the board, correct?

4 A. Correct, sir.

5 Q. And according to the records that the government had you  
6 talk about, detainees being notified of their ability to appear  
7 before the board, there's nothing about -- there's nothing  
8 documenting any detainee actually saying, no, as far as not wanting  
9 to come in front of the board, correct?

10 A. Correct, sir.

11 Q. Not until this time?

12 A. There was no required form for it, sir.

13 Q. Well then the only thing we can have to know that a  
14 detainee's actually receiving a notification is whatever the brig  
15 might write down on some report?

16 A. Yes, sir.

17 Q. Do you know why the form was changed in order to show a  
18 detainee's actual election on whether or not they wanted to appear or  
19 not before the board?

20 A. If I remember correctly, sir, and I'm pretty sure about  
21 this, but I could be wrong, Chief Warrant Officer Barnes, that's  
22 about the same time she took over the brig, and she wanted that.

23 Q. So it ----

1           A.    She wanted a prisoner's signature. And why she wanted  
2 that, I'm going to speculate here, but I'm assuming the brig she came  
3 from previously probably had that. So she wanted it.

4           Q.    Did you actually talk to her about it?

5           A.    No, sir, it was -- it was an easy fix. She said she wanted  
6 it. She's the commanding officer. I didn't see a problem with it.  
7 I didn't see any reason to argue with it. I thought it was a good  
8 idea -- it was fine. So -- like I say, it was an easy change.

9           Q.    So from your testimony I take it that you said you had a  
10 conversation about it with her, is that correct?

11          A.    I'm assuming so, sir. I mean, somebody told me to make the  
12 change. It was either her or Master Sergeant Papakie. It was  
13 probably her I'm sure.

14          MJ: Can I ask just a quick question here. This brig form, this  
15 one that's dated January 2011, is this something that's created  
16 internally by your brig or is it used by every brig?

17          WIT: Oh, no, ma'am, this is a locally generated form just to  
18 document.

19          Q.    And looking at this form, if we look at Page 2 of 26, you  
20 are the senior board member, correct?

21          A.    Correct, sir.

22          Q.    And so as the senior board member you would be the  
23 individual who would fill out all the information above the actual

1 votes of the people, correct?

2

3 A. Not always, sir. Usually one of the counselors generated  
4 it.

5 Q. We'll you're also the counselor in this case, right?

6 A. Correct, sir.

7 Q. So for PFC Manning's case you would fill out all of this  
8 information, correct?

9 A. Sometimes I did, sometimes I didn't, sir. It's -- who  
10 typed this stuff up and pressed print, it could have been one of my  
11 counselors printing it up as far as writing or whatever, ultimately  
12 that would be me, sir, like my signature and all that. But who  
13 actually typed that and printed it, it could have been one of my  
14 counselors.

15 Q. All right. So for this thing here the recommended status;  
16 the MAX and prevention of injury, this is typed before everyone shows  
17 up, correct?

18 A. Correct, sir. That's what we're -- this is what he is,  
19 this is what we're reviewing.

20 Q. Well, no, this is what he is up here on current status, and  
21 this is the recommended status by you, correct, before you even get  
22 to the board?

23 A. Correct, sir. That's the status that we're discussing that

1 day, it should be -- still be -- should he be this. This could say  
2 something else. This doesn't have to match that [referring to the  
3 document].

4 Q. Well, okay, I -- I want you to correct me if I'm wrong. I  
5 see up here current status ----

6 A. True.

7 Q. ---- where it says -- wait -- what he's in, MAX and  
8 prevention of injury. And then when we go down to recommended to  
9 status, we see the recommended status, that means to me that that's  
10 something somebody's recommending, right?

11 A. Right.

12 Q. And here it's MAX and prevention of injury, correct?

13 A. Correct, sir.

14 Q. So in this instance the recommended status means -- and  
15 that's filled out by you?

16 A. Yes, sir.

17 Q. That means at that point that is your recommended status --  
18 --

19 A. Correct.

20 Q. ---- is that not correct?

21 A. Correct, sir. There is one of these forms that eventually  
22 -- where it says recommended status, it changes -- I think it says  
23 status to be reviewed just to make it clear that's what we were

1 reviewing -- that's what we're voting on.

2 Q. Well, we've had other testimony that's not quite consistent  
3 with that. So I want to make sure I understand what you're saying.  
4 Are you saying that this recommended status isn't what you're  
5 recommending before you get to the board?

6 A. That's what the counselor -- in this case, yes, this is  
7 what I'm recommending.

8 Q. Okay. And that is consistent with what we heard. So  
9 before you get to the board then you've made this recommendation and  
10 you're the one who's filling out all of the higher custody  
11 classification factors and all of the ----

12 A. Lower.

13 Q. ---- lower custody factors?

14 A. Correct, sir.

15 Q. You're the one making the election on that?

16 A. Correct, sir. And just to clear up any confusion let's  
17 just -- we're not talking about Manning now. We're talking about ---  
18 -

19 Q. Sure.

20 A. ---- Prisoner Jones -- whatever -- that recommended status  
21 -- that is what the counselor thinks this guy should be.

22 Q. Right.

23 A. So -- and that's -- so that's what the board's reviewing.

1 We're voting on that.

2 Q. Right. So you as the senior board member and the counselor  
3 going into it, the other two members in this case; Staff Sergeant  
4 Jordan and Staff Sergeant Lee, already know what your recommendation  
5 is?

6 A. Yes, sir, they -- they have to. They don't know what to  
7 vote on if they don't know that the counselor's recommending.

8 Q. Right. So one of the three members already has made up  
9 their mind?

10 A. Yes, me.

11 Q. Have you ever had a situation where you recommended a  
12 status here as the senior board member and yet -- then went against  
13 your recommended status?

14 A. Where I recommended the status and I went against my  
15 recommendation, sir?

16 Q. Right.

17 A. No, I don't think so, sir.

18 Q. I wouldn't either. Okay. So -- so then at this point, if  
19 I understand the process -- and I'm retrieving Appellate Exhibit 435  
20 Delta from the witness, and also Enclosure 22 from Appellate Exhibit  
21 259 from the witness [retrieving the documents from the witness]. So  
22 at this point, if I understand the process correctly, you as the  
23 senior board member has already looked at everything, you've made

1 your recommended status, you meet somewhere, usually in your office,  
2 right?

3 A. As long as the prisoner doesn't appear, yes, sir.

4 Q. Okay. And detainees never appear, correct, for the most  
5 part?

6 A. Rarely, sir. I mean it's rare.

7 Q. A very rare occurrence?

8 A. Yes, sir.

9 Q. And so then what happens is you hand the packet to the next  
10 senior member?

11 A. Correct, sir. Somebody briefs it -- briefs the whole  
12 package. Then -- I mean, ultimately, yes, it gets passed on so  
13 people can sign.

14 Q. And the way it gets passed around is it gets passed to the  
15 next senior member for that person to review?

16 A. Correct, sir.

17 Q. And then it gets passed to the junior person for that  
18 person to review?

19 A. Yes, sir.

20 Q. Then you guys talk about it for a second?

21 A. We probably talked about it before we started passing it  
22 around, sir. I mean we ----

23 Q. At some point you talk about it?

1           A.    Yes, sir. The whole thing is briefed.

2           Q.    And that whole process might be anywhere from 10 minutes up  
3 to 30 minutes?

4           A.    It really depends on how many people and what it is we're  
5 discussing, sir.

6           Q.    Per detainee; 10 to 30 minutes would you say?

7           A.    No, no, some of them aren't 10 minutes at all. I mean,  
8 some of them are very easy.

9           Q.    Okay.

10          A.    Example; the DBS -- they were in a DR last night, somebody  
11 got put in "pending investigation status," the C&A board has to  
12 review it the next day because the DBS made a change, it -- he either  
13 did or did not get a DR. I mean, he went from working at a mess deck  
14 to pending investigation, that's real simple; did this guy get a DR  
15 last night? Yes he did. He's pending investigation.

16          Q.    All right.

17          A.    So sometimes it's very, very quick.

18          Q.    So after discussion, however long that may be, and looking  
19 at the record, then you as the senior board member vote first?

20          A.    I mean, yes, sir. I mean, I might not be the first person  
21 that signs the thing or not, but.

22          Q.    Well, I need to understand that then. We've heard  
23 testimony that the senior board member votes first. Do you vote



1 first or ----

2 A. More than likely, sir, because I've probably got the  
3 package in front of me first, so I sign it first.

4 Q. And then it goes to the next most senior board member and  
5 they -- they vote?

6 A. Pass it to whoever's closest, sir, but sure, sir.

7 Q. In your experience is it pass it to whoever's closer or  
8 passing to the next senior person?

9 A. It's not passed necessarily in the order that people are  
10 listed there.

11 Q. That's your memory?

12 A. Yes, sir.

13 Q. Okay.

14 A. I don't remember ever saying, hey, I've got to give it to  
15 this guy next.

16 Q. All right, so it's not done by rank, is that your  
17 testimony?

18 A. Yes, sir. I've never handed it to somebody based off their  
19 rank or the order they're listed on a piece of paper.

20 Q. Okay.

21 A. Not that I remember. I mean, it's -- I pass it to  
22 whoever's there.

23 CDC[MR. COOMBS]: All right. Ma'am, if -- before I go into my

1 next block, if we could take a brief comfort break.

2 MJ: All right, how long would you like?

3 CDC[MR. COOMBS]: Say 35 after.

4 MJ: Government?

5 TC[MAJ FEIN]: Ma'am, if we could make it 40, so that's 15  
6 minutes.

7 MJ: All right, the court is in recess to 20 minutes to 5 or  
8 1700.

9 **[The Article 39(a) session recessed at 1624, 2 December 2012.]**

10 **[The Article 39(a) session was called to order at 1642, 2 December**  
11 **2012.]**

12 MJ: This Article 39(a) session is called to order. Let the  
13 record reflect all parties present when the court last recessed are  
14 again present in court. The witness is on the witness stand. Mr.  
15 Coombs?

16 **Questions continued by the civilian defense counsel [Mr. Coombs]:**

17 Q. Sergeant Blenis, you're still under oath.

18 A. Yes, sir.

19 Q. Now, Sergeant Blenis, I want to make sure of the voting  
20 process again, just to make sure I understand your testimony. So for  
21 the board meeting together, my understanding is once you guys go  
22 together somebody -- maybe just tell me. What happens next? You get  
23 all three board members together in one room. Say the detainee has

1 elected not to be there or is -- wasn't there. What happens next?

2 A. Say the who -- say the name of the person we're reviewing,  
3 what his current status is, what the recommended status is, brief  
4 whatever information goes along with that recommended status, and  
5 then ----

6 Q. Who's doing that?

7 A. Usually the counselor. If not the counselor, I'd probably  
8 brief it.

9 Q. All right, so -- and we'll use now Manning's situation. So  
10 if it's Manning and you're the senior board member, the board members  
11 are going to come together, you are going to brief what?

12 A. What he currently is, what the recommended status is, which  
13 is what they're voting on, and then anything that goes along -- what  
14 goes into the -- why is that -- why is that the recommended status.

15 Q. And when you're saying why that recommended status, you  
16 also brief then other things that you note in the file?

17 A. Correct, sir. So we're going to brief everything from his  
18 history, how he's been since he's been there, interaction with the  
19 staff, the psych's recommendation, my -- in this case, my interaction  
20 with him, conduct, behavior, any supporting documentation that may  
21 exist going into that, I would say -- and this wasn't necessarily  
22 Manning, but let's say he had a disciplinary report that week, we'd  
23 brief that, incident reports that might involve him -- anything on --

1 any kind of supporting documentation. When I say interaction with  
2 staff I'm also going to throw in there that -- the logbook where they  
3 wrote down any kind of behavior or anything like that -- brief that.  
4 Now like the logbook it wouldn't be in there because I've probably  
5 have already done my weekly report and I can just go off of that.

6 Q. All right, so you brief all that. So we're -- we use  
7 Manning as the example. You brief that to the other two board  
8 members. And then what happens next?

9 A. Everybody forms their own opinion of how they want to vote.  
10 And then they make their vote. They would sign -- you know, they'd  
11 sign yes or no to the status, and then they sign it, and then that's  
12 the vote.

13 Q. Okay. So you brief it and -- and so you've got the  
14 classification and assignment review form and anything else that was  
15 included in the packet. Is it right after you brief you discuss it  
16 and then you pass it around to vote or what happens? How does that  
17 process work?

18 A. Once everybody -- once it's briefed then at that point  
19 here's -- here's the C&A sheet, sign -- sign your name and you vote  
20 whatever you're voting.

21 Q. Okay, so ----

22 A. Also, once it's all voted, I get that and that form also  
23 ends up in the commanding officer's desk along with everybody else,

1 plus the ----

2 Q. All right, if we were the two members -- let's say it's  
3 only a two-member board, you just briefed it to me. Okay, you've  
4 briefed me all the stuff, you just hand this form to now and I vote?

5 A. Correct, sir. Here -- here's your -- sign -- sign the  
6 paper.

7 Q. Now before you hand it to me would you make your vote or  
8 would you not?

9 A. Usually I would, sir. I mean, I might forget to sign and  
10 then, you know, sign afterwards. But I'm -- usually probably I sign  
11 first more than likely.

12 Q. And -- okay, so you sign, you hand it to me, I sign, and in  
13 this case maybe there's another person, they sign. Before we sign do  
14 we review all the paperwork or do we go off of what your brief was?

15 A. I mean, you can review it -- they can review all the  
16 paperwork.

17 Q. In your experience, do they review all the paperwork or do  
18 they just go off the briefs?

19 A. Sometimes they'd go off the briefs, sometimes they reviewed  
20 the paperwork. It depends on what paperwork were there. But -- I  
21 mean, ultimately once we're done with the board we sign.

22 Q. Now for PFC Manning, how much time -- and I'm not saying in  
23 every case, but in general, how much time from the board getting

1 together, you briefing it, everyone voting, and then moving on to the  
2 other -- next detainee if need be?

3 A. That varied, sir.

4 Q. Just in general? You can give me a range?

5 A. 5 minutes -- 5 -- 10 minutes, I mean, I don't know.  
6 Sometimes -- sometimes it might be one minute. If there's no new  
7 information to pass on from last to this week it might be very, very  
8 quick, I mean, 'cause some stuff just -- history doesn't change  
9 because if we want to talk post-January 18 incident, January 18th  
10 didn't change -- that was there. So.

11 Q. So it could be as quick as a minute where everyone's saying  
12 noth -- there's nothing new, you know, we're keeping him here, or it  
13 could be longer if you had more information you needed to cover?

14 A. Yes, sir.

15 Q. And at the longest, how long do you think from your memory  
16 did you and the board members took before you finalized your votes?

17 A. Sir, I can't remember how long it would take. I mean it  
18 wasn't a long painstaking process. It might depend on whether I was  
19 able to track down the psych' yet or not. So, I mean, there was no  
20 specific order everything happened in.

21 Q. So once you were prepared to brief it to the other board  
22 members, what do you think the longest you guys evaluated before you  
23 make your vote?

1           A.    I'm sure there's been times where it's been 10 -- 15  
2 minutes where we've talked about it.

3           Q.    Okay.

4           A.    I mean, I can't really remember now, sir.

5           Q.    All right, now you would agree with me -- and I'll actually  
6 -- I'll hand you back Enclosure 32 [handing the document to the  
7 witness]. And we'll just turn to -- to Page 7 of 26 for that.

8           [The witness looked at the document.]

9           Q.    You'd agree with me that it -- as part of what you're doing  
10 here, you're basically trying to make a determination both as to  
11 custody of the detainee and as to their classification status,  
12 correct?

13          A.    Correct, sir.

14          Q.    And custody for PFC Manning would be either maximum or  
15 medium in as a pretrial detainee.

16          A.    Correct.

17          Q.    Those are --

18          A.    It couldn't be anything else.

19          Q.    -- the -- all right. And classification for PFC Manning as  
20 far as his classification status was always either suicide risk or  
21 POI as far as what you were voting?

22          A.    Correct, sir. I don't think I -- I don't think I ever  
23 recommended on paper anything other than that.

1 Q. Okay. And let's talk about maximum custody for a moment.  
2 You know, because he was in a brig then the requirement of the SECNAV  
3 Instruction applied to PFC Manning, correct?  
4 A. Yes, sir.  
5 Q. And that would be SECNAV 1640. --  
6 A. 40.9 Charlie.  
7 Q. -- 9 Charlie, correct?  
8 A. Yes, sir.  
9 Q. Now, since you were obviously a member of the brig and  
10 working in corrections you're familiar with that instruction?  
11 A. Yes, sir.  
12 Q. And certainly you're familiar with the fact that under the  
13 SECNAV Instruction only a small percentage of prisoners should be  
14 classified as maximum custody?  
15 A. Correct, sir.  
16 Q. And that's because maximum custody is reserved for this  
17 individuals who are either a high probability of escape or are  
18 potentially dangerous or violent, correct?  
19 A. Correct. Harms themselves -- potentially violent and  
20 dangerous to themselves, others, staff.  
21 Q. Okay. And having a person on maximum custody, you would  
22 agree, is a manpower intensive requirement for you, the brig?  
23 A. Yes, sir.



1 Q. And that's because you have to lock down the brig entirely  
2 when you move anybody?

3 A. That and just the restraints, sir.

4 Q. Yeah, the hand and leg irons.

5 A. If they go outside it takes two people to bring them out.  
6 Yeah, it's taxing, sir.

7 Q. And so in your experience what type of detainee is  
8 typically on maximum custody?

9 A. Escape risks, potentially violent and dangerous, suicide  
10 watch, prevention of injury, you can have others on MAX. I mean --  
11 could have somebody on disciplinary segregation that's also on MAX.  
12 I can have someone that's on protective custody as a MAX. You don't  
13 really see that too often, but you can. You're not going to find  
14 somebody that's general population on MAX custody.

15 Q. So in this case was PFC Manning an escape risk?

16 A. He could be, sir, you know, because of potential length of  
17 sentence.

18 Q. Did you view him as an escape risk?

19 A. He hadn't demonstrated anything to me and didn't have  
20 anything in his history that would tell me he's an escape risk. If I  
21 would have voted on escape risk, I think -- I would have considered  
22 his potential length of sentence, but I don't -- I don't know if I  
23 voted yes or no -- right now. I mean, you probably -- you would have

1 had to ask me then. But the only thing that -- if I was going to  
2 recommend escape risk for somebody -- taking about Manning -- the  
3 only thing I would have to stand on is potential length of sentence  
4 because he didn't do anything to show me he was an escape risk.

5 Q. Okay, and you already testified that PFC Manning wasn't a  
6 violent detainee to any of the guards or the staff, correct?

7 A. No. He'd -- up until -- I mean, he never attempted to  
8 assault anybody, you know. I know he had -- once upon a time, I  
9 think it's gone now, but the 128 charge. He came in -- so he had a  
10 little bit of history of assault. But, you know, even that, you  
11 know, history of assault, you know, what kind of assault is it  
12 obviously? But, no, I didn't -- I didn't view him as a serious  
13 threat to harm himself -- of himself, but others like staff. I  
14 didn't think he was going -- if I take the cuffs off him I don't  
15 believe he'd punch me in the face. Might, but I don't think he  
16 would.

17 Q. So at least looking at the maximum, and that's for the  
18 violent or potential dangerous detainees or the highest escape risk,  
19 I mean, did you view him as a potentially dangerous detainee to other  
20 members of the staff?

21 A. No, sir. I had no reason to think he was going to harm  
22 other persons or the staff outside of the 128 charge and surrounding  
23 that. But by January, six months into it, he didn't show me anything

1 that he was going to assault staff.

2 Q. So up until, I guess, before -- let's just cut it off right  
3 at January 1st --

4 A. Yeah.

5 Q. -- what were you relying upon week after week to say  
6 maximum custody is my recommendation?

7 A. Let's see. Up to that point it was either suicide risk or  
8 prevention of injury. And that was standard that those like PVD and  
9 escape risk, those statuses came with maximum custody.

10 Q. Okay, from your knowledge and how you were looking at it,  
11 if he was in suicide risk or in prevention of injury, the default was  
12 he was going to be in MAX then?

13 A. Correct, sir. That's what -- that's what we were taught  
14 day one in corrections school. And I've never heard of anything  
15 other than that.

16 Q. Okay, so really, if I'm hearing you correctly, what drove  
17 the train on whether or not he was in MAX was the prevention of  
18 injury status that he was consistently on?

19 A. Correct, sir, from my opinion, yes, sir.

20 Q. All right, so now let's talk about prevention of injury  
21 then. Prevention of injury is not a status that's recognized in the  
22 SECNAV Instruction, correct?

23 A. No, sir, you're not going to see prevention of injury

1 status or classification.

2 Q. And how -- so how does prevention of injury status and  
3 classification come into being if it's not recognized under the  
4 SECNAV Instruction?

5 A. How it first came into existence is, you know, lot -- long  
6 before I started working in corrections. But it's -- I got to  
7 imagine that it came into existence because somebody felt without POI  
8 you were either -- are suicide risk or general population; there's no  
9 middle ground. So in the case of, hey, we don't think this guy needs  
10 to be watched -- he doesn't need to have a guard posted outside.  
11 When you're on suicide watch, there's a guard posted outside your  
12 cell. He sits there and he stares at you. So at that point whoever  
13 created it he didn't say, hey, this is the status that's going -- you  
14 know, prevention of injury, there's a happy medium -- decides, hey, I  
15 don't think this guy's such a risk to himself that we need to have  
16 somebody sitting directly in front of him 24/7 logging in everything  
17 he does, however, I think he needs to be checked. I think there's --  
18 you know, a higher potential of him hurting himself than that of  
19 general population prisoners, so, hey five minutes, prevention of  
20 injury. And that's probably the genesis of it. Speculating because  
21 I wasn't there for the genesis of it.

22 Q. And so ----

23 MJ: Mr. Coombs, can I just interrupt here for just a second?

1 CDC[MR. COOMBS]: Yes, Your Honor.

2 MJ: I'm getting a little confused that there's no reference to  
3 prevention of injury in the SECNAV Instruction. I'm looking at  
4 Section 4205.1a, which talks about prevention of injury -- on Page 4-  
5 14.

6 CDC[MR. COOMBS]: That's not as a status -- custody status,  
7 ma'am. So you ----

8 MJ: Oh, the custody status.

9 CDC[MR. COOMBS]: Yeah -- for a classification status.

10 MJ: Okay, that's where I'm getting confused. Okay.

11 **Questions continued by the civilian defense counsel [Mr. Coombs]:**

12 Q. And just so, you know, I'm -- you correct me if I'm wrong,  
13 that prevention of injury isn't a recognized classification of an  
14 individual by the SECNAV Instruction?

15 A. Correct, sir. It's not in there where it lists, hey, these  
16 are your choices of classification and that's it.

17 Q. Right.

18 A. I mean, that's not there at all. No -- there's nothing  
19 saying that these are your only choices either.

20 Q. Now the SECNAV Instruction does talk about prevention of  
21 injury as being a factor that a commander can consider to take  
22 certain action?

23 A. Correct, sir. I can pick a verbiage, but yes.

1 Q. Now, looking at the -- just any one of the classification  
2 and assignment review forms, I'm looking at the -- what's below the  
3 recommendation and, depending upon which form you're looking at,  
4 below the inmate's selection to appear or not, you see higher custody  
5 factors and lower custody factors?

6 A. [Looking at the document] Yes, sir.

7 Q. You'd agree with me that those only speak toward maximum  
8 custody, is that correct?

9 A. No, sir, they're talking about higher custody or lower  
10 custody.

11 Q. Right. To a custody factor; whether or not the person  
12 should be in MAX or perhaps MDI?

13 A. I'm not sure if I understand your question, sir.

14 Q. Does -- do these factors speak towards the POI  
15 classification or do they speak only towards the custody status?

16 A. They speak to custody and classification, sir.

17 Q. Is that your interpretation of them?

18 A. Yes, sir. I mean, these are -- these are factors that are  
19 overall. Custody and classification go together. I mean, you don't  
20 just -- you never have a board just to consider custody or a board  
21 just to consider classification. I mean, you always review the --  
22 the entire thing; custody and classification.

23 Q. Well, looking at these, the factors that are the higher

1 custody factors, those are from the SECNAV Instruction and they fall  
2 under MAX custody, would you agree?

3 A. I'd have to see the SECNAV in front of me, sir, to see  
4 exactly how it's written, but that -- that sounds about right -- I  
5 mean, the higher custody factors.

6 Q. Okay. And then also for the SECNAV Instruction for the  
7 lower custody factors, those are ones that fall for MDI?

8 A. Or minimum, sir.

9 Q. Right. So that -- so like ----

10 A. I mean lower. Lower than what he is now.

11 Q. All right, then my question is what here speaks towards the  
12 POI classification if everything here is from the SECNAV Instruction  
13 addressing MAX or MDI?

14 A. These are just factors that you consider, sir. I mean -- I  
15 mean, they -- there's nothing saying, hey, you can only consider  
16 these factors when you're talking about this custody. And you cannot  
17 consider these factors when you're talking about his classification.  
18 Or this list you can only consider these factors when you're talking  
19 about classification, but you will not refer to these factors when  
20 you're talking about his custody. Like -- it's a total package, sir.

21 Q. All right. But I'm just looking at the form. So is there  
22 anything on here that speaks to you as these are the factors that we  
23 consider for POI?

1           A.    These are the factors to be considered for custody and  
2 classification, sir.

3           Q.    So serious drug abuse would go towards POI?

4           A.    It would go -- goes towards custody and classification,  
5 sir.

6           Q.    I know. I'm just worried about classification right now;  
7 POI. So I'm asking you from this form, what do you look at to say  
8 these are the factors that we are referencing for POI?

9           A.    This isn't all inclusive, sir, but -- yeah, if I have  
10 somebody who has a serious drug dependency, of course that's going to  
11 be a -- that's not going to make me think he's not suicidal -- you  
12 know, suicide risk or risk of hurting himself. I mean, that doesn't  
13 factor -- that increases your chance of wanting to hurt yourself if  
14 you've had ----

15          Q.    Turn to Page 8 of this -- 8 of 26 for Enclosure 32.  
16 [The witness did as directed.]

17          Q.    You were the senior board member, correct?

18          A.    Yes, sir.

19          Q.    So you would have checked the boxes under higher custody  
20 factors?

21          A.    Yes, sir.

22          Q.    All right. So -- at least under this one, which one spoke  
23 towards POI for you?



1           A.   [Looking at the document.] Disruptive behavior -- because  
2 the disruptive behavior we're talking about is now the January 8th  
3 incident -- I mean, the 18th by the date on this -- low tolerance for  
4 frustration, family relationships, mental screening, potential length  
5 of -- well, potential length of sentence is really not going to play  
6 a factor in -- when I'm -- if I'm just considering prevention of  
7 injury. Length of sentence really -- I'll consider it, but I'm -- I  
8 look at that one more if I'm looking at somebody for escape risk.

9           Q.   All right ----

10          A.   I mean, I could -- that could play a factor did someone  
11 want to harm themselves; hey, I'm looking at a lot of time. I may  
12 want to harm myself.

13          Q.   Okay, so here when you -- you fill this out, I guess,  
14 looking at the lower custody factors, I notice that none of them are  
15 ever -- no matter which one we look at -- none of them are ever  
16 checked. There's one that dates -- when you weren't on the board,  
17 that's Page 12 of 26 that's checked, but it seems to be speaking  
18 towards a higher custody factor as opposed to a lower. So can you  
19 tell me why none of the lower custody factors were ever checked?

20          A.   He didn't have a clear military record. He didn't have  
21 close family ties. The offenses charged were serious. He didn't  
22 apparently have a stable mental condition.

23          Q.   And stop on that one. You were getting consistent

1 recommendations from mental health experts saying he was either  
2 stable or, in fact, you start to get some that says his mental sort  
3 of is resolved, and they're recommending that he come off of POI. So  
4 can you tell me why that wasn't checked?

5 A. Because it wasn't apparent.

6 Q. I'm sorry, I don't understand.

7 A. It wasn't apparent. The psych's was writing that. That  
8 doesn't make it apparent.

9 Q. I don't understand.

10 A. Because a psychologist says he's not a risk to himself that  
11 doesn't -- it's not the end all, be all. I mean, there's more that  
12 goes into it than just the psych's recommendation, especially when I  
13 don't have any kind of reason as why that's his recommendation.

14 Q. And -- okay, tell me why -- I don't understand what you're  
15 saying now.

16 A. Apparent stable mental condition; I've got a doc' that  
17 sitting here telling me recommend removal from prevention of injury.

18 Q. Right.

19 A. Got it. That's your recommendation. I understand that.  
20 Sir, I under -- how did you get to that recommendation? Why did you  
21 -- why is that your recommendation? I would like to know the  
22 questions to that -- answers to that.

23 Q. And did you ask those questions?

1       A.    If I -- I would if Captain Hocter would have been there,  
2   sir.

3       Q.    I'm sorry ----

4       A.    If I had a chance to like talk to the psych's -- like sit  
5   down and talk to him.

6       Q.    Okay, so I didn't know that.  So you -- you had a problem  
7   with Captain Hocter's recommendation?

8       A.    No, not his -- I didn't have a problem with his  
9   recommendations.  I didn't agree with them.

10      Q.    And why didn't you agree with them?

11      A.    Because I don't know how he came to his recommendation.  
12   Sir, I'm not going to base my recommendation off of somebody's  
13   recommendation just because it's their recommendation.  If that -- if  
14   I do that -- if the only reason for my recommendation is because it's  
15   somebody else's recommendation, it's not even my recommendation  
16   anymore.  I'm a puppet.

17      Q.    Yeah, I would agree.  So in this instance though this  
18   recommendation is coming from a mental health professional, right?

19      A.    Yes, sir.

20      Q.    So why did you ever -- why didn't you follow that  
21   recommendation coming from your mental health expert?

22      A.    I don't have to agree with the recommendation solely  
23   because it's his recommendation.

1 Q. Can you tell me why?

2 A. Let's say for instance you're a psychologist ----

3 Q. Right.

4 A. ---- Master Sergeant, I recommend this guy come off of POI.

5 So, fine, since you recommended it, I recommend it. It's not my  
6 recommendation anymore, it's your recommendation.

7 Q. Well, no, I mean, aren't you getting a recommendation from  
8 the mental health experts because they're the mental health experts?

9 A. Yes, sir, I want to know what they think. I don't want  
10 just a recommendation, I want to know what they think.

11 Q. So did you believe Captain Hocter failed to adequately  
12 explain to you why his recommendation was the way it was?

13 A. I think he failed to explain anything to me, sir, because I  
14 never really got a chance to talk to him.

15 Q. Did you ----

16 A. I rare ----

17 Q. ---- did you factor ----

18 A. ---- I rarely talked to him.

19 Q. ---- did you factor -- because he didn't explain his  
20 recommendation, did you believe his recommendation carried a lot of  
21 weight?

22 A. It carried weight, sir. I mean, we reco -- we considered  
23 it. At least I did.

1 Q. Right.

2 A. I considered it. It's his recommendation. I mean, it's  
3 not just, hey, I didn't talk to Captain Hocter so this is his  
4 recommend -- but, screw it, and threw it out. No, I considered it.

5 Q. And in what way did you give it ----

6 A. And that -- and that -- that did weigh.

7 Q. And what weight did you give his recommendations?

8 A. Now, sir, I can't -- I don't know how much of a percentage  
9 I put on it when it came to 100 percent recommendation, but -- I  
10 mean, it would have carried more if I understood why he came to his  
11 recommendation.

12 Q. Well, let's talk about that then. What did you see that  
13 was deficient from how the recommendation was given to you to where  
14 you would have maybe -- carried more weight with you?

15 A. If I understood why he came to his -- sir, if you're  
16 telling me he's not a -- you say he doesn't need any kind of  
17 heightened caution around him as far as hurting himself. Understood,  
18 sir, why don't you think that, because here's what I see, sir. I see  
19 this XYZ, whatever, and if you don't think those are causes for  
20 concern, that's great, but, sir, I am concerned. Tell me why I  
21 shouldn't be. If that's not cause for concern, why, sir, why is he  
22 doing this? And maybe he can explain that to me.

23 Q. Did you talk to Captain Hocter like that and ask him that?

1           A.   No, sir, I didn't get a chance to talk to him at all. I  
2 mean maybe once or twice in passing. But during my tenure as the  
3 programs chief, prior to Captain Hocter leaving, I rarely got to talk  
4 to him. Rarely. The most communication I ever had with him was that  
5 email traffic right when he found out that PFC Manning was getting  
6 confined. I think me and him emailed back and forth three or four  
7 times, I think -- it's all in the same chain -- it's fairly -- fairly  
8 good. That was the best communication I've had with him ever while  
9 Manning was there -- before Manning was ever even going to come  
10 there.

11          Q.   All right, so let's just stick with Captain Hocter for a  
12 moment. Then they -- it sounds like there was a breakdown from your  
13 perspective in him communicating the reasons why he was making his  
14 recommendation.

15          A.   Yes, sir.

16          Q.   Did you address that with your chain of command?

17          A.   Yes, sir.

18          Q.   And how so?

19          A.   Hey, sir or ma'am -- depending on who was there -- once  
20 again, Captain Hocter, he saw Manning. Did he see Manning? Yes, he  
21 saw Manning. Well where's he at? He's gone already, sir. Well,  
22 where did he go? Probably back to the hospital, you know. All  
23 right, well -- and I tell them, hey, sir, I'm not getting a chance to

1 talk to him. He made his recom -- I've got his recommendation here -  
2 - if I had it. Sometimes I wouldn't even have a piece of paper.  
3 He'd take it with him. But eventually when I had it -- hey, sir,  
4 I've got his recommendation here. But being able to talk to him, you  
5 know, I haven't talked to him. I can't get a chance to talk to him.  
6 I'd be great to talk to him. But the comments on this sheet -- his  
7 recommendation was clear. It always said, yes, remove or maintain  
8 his -- his ultimate recommendation was clear, aside from that you  
9 might get one sentence -- to -- and I need a Rosetta Stone to read  
10 it. But the -- there was -- I would love to have more substance,  
11 either in writing or speaking in person. If he gave me a write-up  
12 that had all kinds of, hey, I don't think he's a risk and here's why  
13 -- all kinds of stuff, that would decrease the necessity to talk to  
14 him. But since I had no substance -- like I remember one that said  
15 only "Maintain POI. Thanks." Like that's -- that's -- that's what I  
16 get. Seriously, can I get a little bit more than that? So I can't  
17 recommend my decision -- make my recommendation based solely off of -  
18 - just because it's his recommendation, it should be mine. That's  
19 not my recommendation anymore. Just like I tell my Marines, even  
20 today out at Camp Pendleton, don't you dare make your recommendation  
21 because it's my recommendation. That's -- if we do that, I'm not  
22 even doing -- I'm doing my job. The commanding officer counts on me  
23 to make my recommendation based off of the facts that are presented

1 in front of me and my interpretation of those and my thought process.  
2 If everybody else's recommendation is based off of mine or mine is  
3 based off of somebody else's solely because it's their  
4 recommendation, I've just failed the commanding officer.

5 Q. Now -- and I can tell you feel strongly about that. So did  
6 -- did -- when you expressed this to Chief Averhart, what did he say  
7 back to you?

8 A. I don't remember his response. I know -- I know he tried  
9 to communicate with Captain Hocter, you know, before. I know -- you  
10 know -- now we're getting to the powers to be level, sir. I mean, I  
11 wasn't -- I wasn't in there. I don't know the conversations he had  
12 with him, didn't have with him. I remember -- and this is before  
13 Manning ever came to the brig, hell, I couldn't even get the man to  
14 use a stamp.

15 Q. I'm sorry?

16 A. You know the medical officer stamps where you sign it --  
17 they stamp it or whatever. He wouldn't even use a stamp. Chief  
18 Warrant Officer Averhart, when he came on deck, if we received a  
19 confinement order or anything from medical -- he's in confinement  
20 already -- confinement physical, if there was a stamp on it, great.  
21 If there wasn't a stamp we didn't really care because a stamp's not  
22 required. You know, in the end a medical officer, you know,  
23 evaluation is and his signature is -- his signature's what validates



1 it to me. When Chief Warrant Officer Averhart came on deck, he  
2 wanted the stamp. So, great, hey, sir, I'll do what I -- I'll see  
3 what I can do to get you a stamp from these guys. And we went  
4 through painstaking trouble trying to get doc's to use stamps. And  
5 most -- most informed -- because usually the visits are done by the  
6 same doctors over at the Naval Hospital or -- Captain Hocter never  
7 used a stamp; refused to use a stamp. I remember sending emails, and  
8 I remember one response to an email about the stamp was, if the brig  
9 wants to buy me a stamp, great, but I'm not getting one, or words to  
10 that effect -- that's not quote.

11 Q. And do you remember if Chief ----

12 A. But I couldn't even get him to give a stamp let alone talk  
13 to me.

14 Q. Do you remember Chief Averhart then also talking about  
15 believing that Captain Hocter was trying to cover both sides --  
16 basically covering his "six"? Do you remember that email?

17 A. I'm sorry, sir.

18 Q. Do you remember receiving an email -- you were cc'ed on it  
19 -- from Capt -- from Chief Averhart saying that he thought Captain  
20 Hocter was trying to cover his "six" with his eval's?

21 A. He might of. I don't recall it. I mean, I don't honestly  
22 remember that. He might have. I don't doubt that email exists --  
23 especially talking about it -- I'm sure it does, I just don't

1 remember it.

2 Q. And do you recall Chief Averhart ever expressing to you  
3 kind of the same way of what you were just talking about any specific  
4 displeasure with Captain Hocter's availability?

5 A. Nobody was happy with that, sir.

6 Q. Did he express that to you?

7 A. He probably did. I mean I don't remember specifically.

8 Q. And I take it from what you're saying now and how you said  
9 it that you weren't happy with the way Captain Hocter was conveying  
10 the reasons behind his recommendations?

11 A. I wasn't happy with our working relationship at all. We  
12 had -- we had -- I mean our working relationship with him -- and I'm  
13 not just saying me, I'm saying the brig as a whole, was next to none.  
14 Nobody was happy with it.

15 Q. Would you agree with me that, you know, obviously the  
16 psych' eval' is part of the overall recommendation and consideration  
17 by the classification and assignment board, right?

18 A. If -- for Manning, yes, because we're just talking about  
19 POI and SR -- yes -- unless he's not there.

20 Q. And would you agree with me that in this instance if -- if  
21 you were getting an eval' from a doctor you didn't trust, do you see  
22 how that might be unfair to PFC Manning?

23 A. If I was getting an eval' from a doctor -- a doctor that I

1 just don't trust, is that unfair ----

2 Q. Could you see how that could be unfair to Detainee Manning?

3 A. I could see how somebody might -- might think it's unfair,  
4 but -- I mean, that's the only doc' I got that's coming here to do  
5 this.

6 Q. I mean, like if you had a doctor that -- that did respond  
7 the way you wanted; explain to you in the manner that you want it to  
8 be explained to why PFC Manning was not a risk of self-harm to your  
9 satisfaction, do you see how that would maybe weigh a little bit more  
10 in your ultimate factor?

11 A. It would, sir, because it had more substance. You know,  
12 I'd have more to go off of. I mean, the more information the better.  
13 I mean -- so -- so, yeah, that's what I wanted.

14 Q. And so when you weren't getting that, do you see how then  
15 that would be unfair to PFC Manning?

16 A. I -- I understand what you're saying, sir. You know --  
17 but, I mean -- not having the information?

18 Q. [Responded in the affirmative.]

19 A. It didn't help my recommendation to get him to come off of  
20 POI. So I mean it didn't make me want to put him on POI or SR --  
21 lack of -- no information, yeah, it sure didn't help being able to  
22 come to a reco -- a better recommendation to -- you know, reasons why  
23 I shouldn't be as concerned as I am.

1 Q. Now Captain Hocter, when he did come -- how long did he  
2 spend with PFC Manning?

3 A. Sometimes it would be -- I'd say he spent at least an hour  
4 with him, I think. Sometimes it was really long.

5 Q. Like what would be the longest you think?

6 A. I can't remember, sir. I remember him being there two --  
7 two and a half hours, I think, sometimes. And -- and -- it wasn't  
8 just Manning he saw, too, so I can't remember really. I mean, if it  
9 was just Manning or Manning plus somebody else. I -- I don't  
10 remember.

11 Q. And ----

12 A. I don't -- I don't think it was ever -- he came in and  
13 talked with him for five minutes and left. I didn't ever see that.

14 Q. Okay, so when he came to speak with PFC Manning it was on  
15 average, from your memory, at least an hour or so?

16 A. I -- yes, sir. I mean, I always felt it was long enough to  
17 where he probably thoroughly did his job -- I assumed. I mean he was  
18 in there for a while.

19 Q. Now when PFC Manning came to speak with you -- actually  
20 when you spoke to him on a weekly eval' sometimes you would speak to  
21 him when he was in his cell?

22 A. Yes, sir.

23 Q. And sometimes to give him a break from his cell you'd have

1 him brought to your office?

2 A. In a perfect world, sir, I'd bring him to my office every  
3 week. Hell, he can come into my office every day if he wanted.

4 Q. No, I'm just simply saying sometimes you'd speak to him at  
5 his cell --

6 A. Sometimes in my office.

7 Q. -- and sometimes you'd have him brought down to your  
8 office?

9 A. Yes, sir.

10 Q. And because he's a MAX detainee, when he's brought down to  
11 your office, he's always still in his restraints?

12 A. Correct, sir.

13 Q. And that's because that's what the Brig O requires -- the  
14 Brig OIC?

15 A. Correct, sir. I mean, that's every brig. I've never been  
16 to a brig where someone from maximum custody comes out, sir, without  
17 restraints unless you were in the shower.

18 Q. Okay. And when you go to speak with him at his cell, how  
19 long do you normally spend with him?

20 A. Sometimes it's very brief. Sometimes it would be a few ---  
21 -

22 Q. Can you give me the range?

23 A. Anywhere -- anywheres from 30 seconds to 20 minutes.

1           Q.    No, I'm talking about for your weekly conversation with him  
2 as his counselor?

3           A.    I mean, sometimes it would be very brief and sometimes we'd  
4 be there for a while. I don't remember ever spending very many times  
5 where I was at his cell for 20 minutes. I mean, that has happened,  
6 but it was more time for me to be there for 30 seconds to a minute  
7 because it was one of those that he's -- he's just -- he ain't  
8 talking to me. He wants me to move on.

9           Q.    Okay.

10          A.    There's been times where -- there's time where I've brought  
11 him down to my office -- and he's there -- and, you know, sitting  
12 there -- and again, it was one of those very direct, you know,  
13 answering questions -- not elaborating on much -- not -- you know,  
14 really just trying to hurry up so I can get out of there. That's the  
15 feeling I got.

16          Q.    Okay, and I -- so I want to actually divide these just so  
17 your testimony is clear. So then when you were -- when you'd go to  
18 his cell to talk to him it could be for your weekly counseling  
19 evaluation. It could be as little as 30 seconds -- a minute, if he's  
20 not talkative, to 20 minutes?

21          A.    Yes, sir. I mean, that's any -- I mean, I'm not -- it  
22 wasn't -- it's not like I went down to his cell. I'd leave my office  
23 -- I'm going to Manning's cell for his weekly interview. I went to

1 special quarters almost every day.

2 Q. Okay, but the SECNAV Instruction requires you to do a  
3 weekly evaluation with each detainee.

4 A. Correct -- correct, sir.

5 Q. So I'm asking about that.

6 A. To meet -- to meet with him -- to meet with him at least  
7 once weekly. I met with him -- I tried to meet with him daily.

8 Q. Okay. So are you -- is your testimony, I guess now, for  
9 your evaluations you would meet with him at his cell daily from 30 --  
10 between 30 seconds to 20 minutes?

11 A. No, sir. Whenever I met with Manning, it was either in his  
12 cell or in my office. And these meetings sometimes were 30 seconds,  
13 sometimes they're -- in my office they're -- you know, they're --

14 Q. Because the ----

15 A. -- in my office -- upwards of an hour or more.

16 Q. All right. Because the eval's re -- actually state an  
17 exact day when you had your evaluation with him, right?

18 A. Yes, sir.

19 Q. Okay, so that's what I'm talking about. So on those days  
20 when you -- if your eval' was down at his cell, what was the time  
21 period that you would spend?

22 A. Sir, I -- 20 minutes. I mean -- I don't know. I don't  
23 remember.

1 Q. Okay, and then --

2 A. Sir, I don't remember.

3 Q. -- if the eval' ----

4 A. I mean, it varied -- it varied so much that.

5 Q. Okay, and if the eval' was at your office where you  
6 actually brought him down, on average, how long do you think you'd  
7 spend with him?

8 A. Whenever he came to my office -- and, again, this isn't  
9 just Manning's coming to my office for a weekly interview -- you  
10 know, Manning's coming to my office just 'cause, hey, let me get  
11 Manning down here. We might be talking -- it might be for a chit --  
12 phone call, I don't know.

13 Q. But I'm only talking about the eval's -- the eval's you're  
14 documenting, you're writing down, your observation and evaluation  
15 notes for that week. And you say on that date you -- you evaluate  
16 him. So that's what I'm talking about. So when he comes down to  
17 your office on that day, how long in general do you spend with him?

18 A. 15 to 20 minutes, up -- sometimes an hour, sir. It depends  
19 -- depends on if he's talking to me or not.

20 Q. And that entire time he's in his restraints because he's a  
21 MAX detainee?

22 A. Correct, sir.

23 Q. And because you --



1           A.    There may -- there may have been times where I had them  
2   take the restraints off. I don't specifically remember if I ever did  
3   that or not. But ----

4           Q.    Well, that's what I was going to ask you -- because you had  
5   that previous experience with the death row detainee, where once the  
6   restraints were removed, after a period of time, that person started  
7   to talk to you more.

8           A.    Correct, sir.

9           Q.    Did you try that technique with PFC Manning?

10          A.    If I did -- I don't remember specifically if I did or not,  
11   sir. But I never felt like that was -- that was going to get it.

12          Q.    And if you did try that technique with PFC Manning,  
13   obviously you would have to get the Brig OIC's approval?

14          A.    Not -- I wouldn't do it beforehand.

15          Q.    Well the SECNAV Instruction requires and the Brig OIC  
16   requires under the local SOP for your confinement facility that all  
17   MAX detainees will be in hand and leg restraints.

18          A.    Correct, sir.

19          Q.    So you would -- you would obviously need to get your Brig  
20   OIC's approval?

21          A.    Sir, it was understood from any commanding officer that  
22   I've ever had that if -- if I'm down here, he's in his counselor's  
23   office, and we feel like, hey, we want to have the restraints

1 removed, we can. Just let him know later. But, yes, sir, we got --  
2 we had that latitude.

3 Q. Okay. And do you recall ever doing that for PFC Manning?

4 A. Not specifically, no, sir.

5 Q. So at this point then, going back to the classification and  
6 assignment review form -- and that -- and actually before I ask that  
7 question, if you're spending on average 20 minutes, maybe at his  
8 cell, to upwards to an hour or maybe a little bit more if he's in  
9 your office, would you agree with me then that you're probably seeing  
10 PFC Manning about the same amount of time that Captain Hocter is  
11 seeing PFC Manning?

12 A. It depends on the week, sir.

13 Q. I'm just saying in general would you agree that the two of  
14 you are seeing him about the same amount of time?

15 A. It's probably closer. I mean it really -- really depends  
16 on the week, but -- I mean, some weeks, yes, some weeks, no. I mean,  
17 hell, sir, I don't know. And then on top of it -- again, I didn't  
18 put a stopwatch on when Captain Hocter met with Manning and just  
19 Manning.

20 Q. Okay.

21 A. Now, remember if he went down there and met with him down  
22 in the little room there in front of special quarters, it was Captain  
23 Hocter's in there. Hey, he's in there with Manning. Hey, he's in

1 there with whoever else. I was never going to barge in and talk to  
2 Captain Hocter. I was always waiting for him to get done. So he  
3 might be down there -- sometimes he might be in special quarters for  
4 three -- four hours. That doesn't mean he's in there with Manning  
5 for three or four hours. So how long it was per person there, sir, I  
6 don't remember.

7 Q. Okay. So -- now I know -- now I want to talk about POI and  
8 why you had him on POI then from -- from basically every week when  
9 you made your vote. And I think I understand you correctly, and you  
10 can say I'm wrong, but what drove the MAX custody was because he was  
11 POI or SR?

12 A. Yes, sir. I mean that was just -- there was no such thing  
13 as an MDI/SR.

14 Q. Okay.

15 A. That is unheard of. I never heard of such a thing at this  
16 time.

17 Q. So -- all right, so then for the POI, why was he on POI  
18 from your perspective? And we can go -- let's go up to January 1st.  
19 So from -- from basically August 27th when -- the first time you get  
20 the recommendation from Captain Hocter to take him off of POI, to  
21 let's say January 1st. That almost six month time period, why do you  
22 have him on POI week after week?

23 A. Because he has a history of suicide ideations, gestures,

1 statements -- written statements.

2 Q. What statements are you talking about?

3 A. The are you suicidal -- or are you currently suicidal or  
4 however it was -- yes, always planning, never acting. It's a written  
5 statement.

6 Q. Okay, so the intake statement that he made on 29 July?

7 A. Yes, sir. Always planning, never acting. That -- always  
8 is pretty -- always doesn't come with an expiration date.

9 Q. Okay. In your mind did it ever have an expiration date  
10 where maybe, okay, we're far enough removed?

11 A. No time period, sir. I mean, always is always; simple as  
12 that. The farther we get away from that as time goes on, it becomes  
13 less relevant. Ten years from now, zero problems -- I mean, always  
14 planning, never acting, that's a long time ago. Ten weeks ago, not  
15 so long.

16 Q. So in your mind -- and I know those are the two extremes  
17 apparently for you; 10 weeks, not so long, 10 years very long. Is  
18 there a time period where you start to say, okay, yeah, that's far  
19 removed and we should probably not consider it?

20 A. Oh, no that'll never not be considered.

21 Q. Okay.

22 A. That could never not be considered.

23 Q. All right.

1           A.    No, sir. I never had a target date -- I mean it goes in --  
2 because now we're just talking about just his statement. But now  
3 we're in -- on top of that he made a noose out of -- I got a report  
4 that says he made a noose out of a bed sheet.

5           Q.    Okay, and then that's the stuff that happened in Kuwait,  
6 right?

7           A.    In confinement, sir. I mean -- let's remember -- if I  
8 remember right, that -- that incident report that was dated -- where  
9 they found the noose in his bed sheet --

10          Q.    Right.

11          A.    -- was only like three or four weeks before he got to  
12 Quantico, if I remember now -- I can't remember now for sure. But I  
13 mean it was fairly recent. But I got a report that tells me he made  
14 a noose out of a bed sheet, he tells me he made one out of sandbag  
15 ties, these are -- this is a plan. This is in confinement. I don't  
16 care how bored you get, you don't make a noose inside a jail.

17          Q.    Right.

18          A.    So -- or two -- I'm thinking there's two.

19          Q.    Okay.

20          A.    Simple as that. I've got a report and he's telling me  
21 about another one. So as far as I'm concerned I got two because I'm  
22 not going -- I'm not going to question the integrity of a report, and  
23 I had no reason to -- to question his integrity either. I never

1 caught him lying to me. So I'm not going to question the integrity  
2 of either one of them. So I've got that. I've got the always  
3 planning, never acting after that. I've got no rapport being  
4 developed for August, September, October, starting to get developed  
5 in November, you know, starting to get it developed in November.  
6 December he's communicating with me. You said we'll start at January  
7 1st, but he started to in January as well.

8 Q. Yeah, let's stop there. So -- so for that time period then  
9 it's the lack of communication that's the big factor for you?

10 A. I -- I -- it's huge, sir. I need him to convince me that  
11 the making the nooses, the statement he wrote, the -- by this point  
12 now we know of these other things that he, you know, the irregular  
13 behavior, he's -- I needed him to communicate with me and tell --  
14 tell me why I don't need to be so concerned about this.

15 Q. What was the -- okay, and I don't want to miss any of your  
16 -- factor's you're putting there. So the communication part I think  
17 we covered that even though you thought there wasn't a good line of  
18 communication, you never directly went to PFC Manning and said, you  
19 know, I need you to communicate with me more.

20 A. I'm sure I said that -- I mean did I ever go up to him and  
21 say it just like you just said it?

22 Q. Right.

23 A. Probably not. But at some point I -- I -- no communication

1 was ----

2 Q. You -- on direct you said I never asked, hey, why aren't  
3 you talking to me?

4 A. Probably not. I never went up to him and ask him the way  
5 you just asked me?

6 Q. Right.

7 A. Naw, I don't think I probably did that.

8 Q. Okay. So -- and not asking him why aren't you talking to  
9 me, you were just relying on him eventually to open up to you and  
10 talk to you more?

11 A. Engaging in discussion. That's why I tried so many  
12 different ways to get him to talk -- I tried playing chess with him.

13 Q. Right.

14 A. So.

15 Q. Okay. And so then -- so that's one factor. So we've got  
16 the noose. We've got the statement he made at intake. We've got the  
17 fact he's not talking to you. And then you said the other behavior.  
18 What's the other behavior?

19 A. Such as licking the bars in his cell. The other abnormal  
20 behavior that was being logged in the logbook -- sword fighting, what  
21 -- I can't remember what all that was logged in the logbook.

22 Q. Okay, but my understanding of that is -- is you overheard  
23 that when you were walking up to some guards that they -- they just

1 mentioned that.

2           A. That's the first time that we ever -- I don't know what  
3 they said that caught my ear. But when they said whatever they said  
4 that caught my ear, I asked them about that. And then they told me  
5 about a couple other different things. That's when I went and talked  
6 with the CO. That's when -- this is the genesis now of the logbook  
7 that came up.

8           Q. So you never saw the conduct?

9           A. No, sir. I never saw him licking the bars.

10          Q. Okay, so what was reported to you and what we saw in the  
11 email was the thought was he was licking the bars when he was  
12 sleepwalking?

13          A. That's -- that's -- the guards said, hey, it looks like  
14 he's sleepwalking. I don't know, he's leaning up against it -- it  
15 looks like he's sleeping -- he's licking the bars.

16          Q. Okay, so did you talk to the doctor about that conduct?

17          A. I hardly get a chance to talk to the doctor at all really.

18          Q. So you never heard back from the doctor that that may be a  
19 side effect of medication that he's taking?

20          A. No. No doc's ever told me that, sir. And I'm not a  
21 scientist, so I can't speak intelligently on the side effects of any  
22 drugs at all. And I didn't even know what kind of medications he's  
23 on.



1 Q. If a -- if a doctor told you that that was a side effect of  
2 the medication, would that make you -- would that allay some of your  
3 concerns that this is odd behavior?

4 A. It might, sir. But then -- I mean, if the doc' told me  
5 that, I'd say, hey, sir, how come nobody else on the med's do that?  
6 That would be my next question.

7 Q. Okay, so you would -- you'd inquire some more then?

8 A. Yeah, that would be my next question if I -- if a doc'  
9 said, yeah, this is his -- this is the side effect of the med's.

10 Q. And if the doctor answered that question with a response  
11 that made you feel comfortable with, would you then think this is an  
12 odd behavior?

13 A. It's odd, sir. Don't nobody else be doing that, so that  
14 ain't normal. But -- but ----

15 Q. No, I mean if the doctor told you that there was a medical  
16 reason for it, not a mental health issue, and calmed your concerns on  
17 that, then you could discount that as a -- as a red flag for you?

18 A. Not necessarily, sir. I mean it's still troubling. Not as  
19 much as if he was doing it on purpose.

20 Q. Okay. And then the other odd behavior, what -- you -- I  
21 think you said sword fighting?

22 A. Yes, sir. And I can't remember what else was logged in. I  
23 -- I don't remember all that was logged in.

1 Q. Did you -- you talked to the guards about this, right?

2 A. Yes, sir.

3 Q. And did they ever tell you that that was pretty normal  
4 behavior for people who were on MAX?

5 A. Sir, I've -- once upon a time I did work in special  
6 quarters.

7 Q. Right.

8 A. I've never seen anybody do any of these things. So if the  
9 guards were like that's normal for people on MAX to be doing. That's  
10 -- I'd raise the BS flag because I don't see it. If he was normal,  
11 I'd see lots of people doing it. Maybe not everybody, but it  
12 wouldn't be uncommon. And if it was normal, guards wouldn't have  
13 been talking about it outside. And it wouldn't -- if it was normal,  
14 it wouldn't have caught my ear the way it did.

15 Q. So you -- you would have -- if a guard told you, hey --  
16 then Gunny Sergeant -- yeah, we seen him sword fighting or playing  
17 peek-a-boo with the mirror, or dancing in his cell, but we see other  
18 people do similar conduct because they're just bored in their cells  
19 because they're there 23 hours a day?

20 A. But they didn't tell me that.

21 Q. No, I'm saying if they told you that, you would say BS to  
22 that?

23 A. If they said everybody's doing it?

1 Q. No, that it's not that uncommon?

2 A. If they're telling me everybody's doing it, then, okay, I  
3 guess it's common. Like I said I've never seen it before.

4 Q. And if a mental health doctor told you that all of those  
5 behaviors are normal behaviors for somebody who's board and is not  
6 indicative of a mental health disorder or concern, would that allay  
7 your concerns and say, okay, that's not odd behavior?

8 A. It may have -- it's still odd, sir. It's odd unless it's  
9 normal for me to find people that do it. If he says, hey, I can see  
10 why he'd be doing it, he's on MAX custody. I'm like, hey, sir,  
11 there's lots of people on MAX custody, but he's the only one doing  
12 it. So that's still not normal.

13 Q. Okay.

14 A. If there's only one person doing it, it ain't normal.

15 Q. So then -- so we've got the behaviors that you -- I know  
16 you can't remember them all, but some -- some behaviors you believe  
17 that are odd. Then you've got no being talkative. Anything else for  
18 that, you know, basically August to January 1st timeframe?

19 A. That he did?

20 Q. That you factored in for why you thought POI would be  
21 appropriate?

22 A. Oh, he isolated himself. He didn't communicate with  
23 anybody except maybe his attorneys.

1 Q. Okay, but ----

2 A. Not -- well ----

3 Q. I think that's the non-talkative. Are you saying further  
4 isolation or?

5 A. Didn't write any letters to anybody. He tried to send one  
6 letter out one time that I remember that had a woman's name on it. I  
7 think he sent like two or three letters fairly early on. I mean one  
8 where it was sent out under a -- under a woman's name.

9 Q. And let's talk about that for a moment. When he sent a  
10 letter out under a woman's name; that was Brianna Manning?

11 A. Yes, sir.

12 Q. And for you that was a red flag?

13 A. Yes, sir.

14 Q. Because he was trying to send out a letter under a female's  
15 name?

16 A. Yes, sir.

17 Q. And why else was that a red flag for you?

18 A. Because he told me he thought he was a woman once upon a  
19 time. And now he's sending a letter out as a woman. That's not  
20 normal, sir.

21 Q. Okay, but that wouldn't be a justification for POI would  
22 it?

23 A. In itself, no. On top of other things, it's a factor.

1 Q. And why would you have that as a factor?

2 A. 'Cause, sir -- I mean that's not -- when you add that on  
3 top of the other things we've talked about, this is just another  
4 thing that shows that he's stable -- not stable. That's why  
5 originally where it says apparently stable, it's not apparent.

6 Q. Okay, so you thought because he thought that one point ----

7 A. That was a reason for concern.

8 Q. I'm sorry?

9 A. That -- yeah, that's a reason for concern as well -- that  
10 on top of everything else. If that was the only thing and all the  
11 other things just didn't exist, no, I wouldn't recommend somebody to  
12 be a POI just for that sole one -- tried to send a letter out with a  
13 woman's name.

14 Q. Okay. Anything else you can think of?

15 A. I mean if we go down these things -- I mean, his family  
16 history -- poor family history, again, that itself does not make  
17 somebody, you know, a huge -- you know, cause for concern? I mean,  
18 it is a cause for concern, again, especially stacked up on all the  
19 things we've talked about.

20 Q. You'd agree, I guess, with the poor family history if -- if  
21 you don't have close relationships with your family there's not a lot  
22 you can do about that. That that's just the way it is.

23 A. No, I wouldn't agree with you.

1 Q. Okay, please tell me what you think then?

2 A. I have a poor relationship with somebody in my family?

3 Q. Right.

4 A. There are ways that I can try to correct that. I mean  
5 anybody can do that.

6 Q. Okay.

7 A. It's not once I have a poor relationship with somebody in  
8 my family it's forever be that way. It may forever be that way, but  
9 it's not like it's destined to be that way so I'm not going to do  
10 nothing about it. Yeah, you can do something about it. You can try  
11 to anyway.

12 Q. Okay. So -- all right, so then you would think that PFC  
13 Manning would try to improve his family relationships?

14 A. I wouldn't expect him to. I mean if he doesn't want to, he  
15 doesn't want to. But he could.

16 Q. And until he does that box is going to be checked "Poor  
17 Family Relationships"?

18 A. Until it's no longer poor, it's poor.

19 Q. Okay, any other factors?

20 A. Until January 1st, sir, his -- again, his history, his  
21 behavior, isolation, being withdrawn, not wanting to communicate, not  
22 wanting to talk, and -- by January 1st that was starting to get  
23 better. But I mean -- I mean those were the main ones. Was there

1 other things, yeah, there may have been, but I can't remember  
2 specifically. But those were, you know, the things that come to my  
3 head right now.

4 Q. Okay.

5 CDC[MR. COOMBS]: Your Honor, if we could just have another 10  
6 minute comfort break and then I'll continue.

7 MJ: Okay.

8 TC[MAJ FEIN]: 10 minutes, Your Honor.

9 MJ: Court is in recess until 1745 or 5:45.

10 **[The Article 39(a) session recessed at 1737, 2 December 2012.]**

11 **[The Article 39(a) session was called to order at 1751, 2 December**  
12 **2012.]**

13 MJ: This Article 39(a) session's called to order. Let the  
14 record reflect all parties present when the court last recessed are  
15 again present in court. The witness is on the witness stand. Mr.  
16 Coombs.

17 **[Continued cross-examination.]**

18 Q. Master Sergeant Blenis, I remind you that you're still  
19 under oath?

20 A. Yes, sir.

21 Q. Now after you heard about the behavior from the guards,  
22 that's when you went to the Brig CO and told him about it, correct?

23 A. Yes, sir.

1 Q. And after that it was ordered that if PFC Manning did any  
2 stuff that was considered odd that it would be logged in?

3 A. Correct, sir.

4 Q. And that was what Chief Averhart said. He ordered that  
5 basically?

6 A. Yes, sir.

7 Q. And you'd seen that these logbooks -- you'd seen logbooks  
8 before but only in pretty special circumstances, correct?

9 A. Yes, sir. Those prisoners on suicide watch -- have I seen  
10 a logbook designed just for one person before? I have, but that's --  
11 you are right, it's rare.

12 Q. All right. And Chief Averhart didn't want this to be  
13 logged into the special quarter's logbook with other entries,  
14 correct?

15 A. Correct, sir.

16 Q. He wanted it to be in a separate logbook?

17 A. Correct, sir.

18 Q. And he wanted it in one area instead of having to search  
19 for any sort of odd behavior in the larger logbook, right?

20 A. Correct, sir. It -- it was -- originally it went in a  
21 suicide watch logbook. The problem with that is if I had -- let's  
22 just say I had person on suicide watch at the time, now I would have  
23 entries regarding this person on suicide watch and then entries that



1 may pertain to PFC Manning. That's why the -- the other logbook came  
2 around. We just stopped doing the suicide watch logbook that would -  
3 - wouldn't become a problem, so we just -- that where the individual  
4 logbook came out.

5 Q. And you told -- you told the defense that the -- another  
6 reason why he wanted a log book was "Because by the time that came  
7 around, you saw the direction this whole thing was going. And you  
8 knew stuff was going to be getting asked."

9 A. Probably, sir.

10 Q. And you also said "By the time we already saw that his  
11 lawyer was really involved in making complaints, and you saw the  
12 direction that this potentially was going to come. And a lot more  
13 people were starting to make phone calls and asking questions"?

14 A. That sounds about right, sir.

15 Q. So after this anything that was considered odd was going to  
16 be documented in this separate logbook?

17 A. Correct, sir.

18 Q. Now I want to go through some of the behaviors with you  
19 'cause those behaviors that were logged in the logbook were  
20 ultimately captured also in Chief Averhart's weekly report, correct?

21 A. Yes, sir. I'm pretty sure I did.

22 CDC[MR. COOMBS]: I'm handing you again Enclosure 22 [handing  
23 the document to the witness].

1 Q. And let's go through the odd behaviors that were  
2 identified. And the first one is from the 1 December weekly report,  
3 which is Page 49 of 109. So if you would turn to that.

4 A. I'm sorry. You said 49?

5 Q. Yeah. And it's actually on Page 50 is the entry. And it's  
6 Number 3.

7 [The witness looked at the document as directed.]

8 A. Yes, sir.

9 Q. So you see there where PFC Manning was apparently observed  
10 dancing in front of the mirror of his cell?

11 A. Yes, sir.

12 Q. And in this one week this was the only odd behavior that  
13 PFC Manning apparently did, correct?

14 A. Yes, sir, that's the only thing that was logged in.

15 Q. And so that would mean to you that's the only thing he did?

16 A. That's the only thing I'm considering 'cause that's -- I  
17 haven't been told about anything else. And that's the only thing in  
18 the logbook.

19 Q. All right. Do you know if he was told to stop dancing?

20 A. I -- I -- I don't know, sir.

21 Q. Is dancing considered exercising, which would be prohibited  
22 under, I guess, the brig rules?

23 A. I wouldn't consider dancing exercising. I guess anything

1 active is exercising. But I -- I wouldn't call dancing exercising.

2 Q. Did the brig staff, when they logged this, tell you  
3 basically how PFC Manning was dancing; what he was doing?

4 A. They may have, sir. I don't -- I don't recall  
5 specifically. They might of. I just wrote "dancing."

6 Q. All right, so then if we turn to the 8 December report,  
7 which would be Page 53 of 109, you see there were apparently the  
8 logbook noted that on 1 December, PFC Manning was posing and flexing  
9 his muscles in front of the mirror in his cell? You see that?

10 A. [Looking at the document] Yes, sir.

11 Q. And so, again, that's the only odd thing that was  
12 documented for this week?

13 A. Correct, sir.

14 Q. Now have you -- looking at that, do you consider that to be  
15 odd behavior?

16 A. It's extremely strange and unorthodox -- and just -- like  
17 out there in left field, sir. Like licking your bars? Naw, naw. I  
18 mean, you don't normally find prisoners doing that -- I don't think  
19 you'll ever find prisoners doing that. But in itself, naw.

20 Q. And I'll -- I mean --

21 A. It's not extreme.

22 Q. -- I'll confess for me, I've done that myself in the past.  
23 I've posed in front of a mirror, flexed my muscles. Have you ever

1 done that yourself?

2 A. No, sir.

3 Q. Never?

4 A. No, sir. I -- I -- if I have, I mean, I don't -- sure,  
5 let's ----

6 Q. Do you know if the guards told PFC Manning to stop flexing  
7 his muscles in front of -- the mirror?

8 A. They may have, sir, I don't know.

9 Q. Would that have been documented in any way?

10 A. If they told him to stop doing it?

11 Q. Right.

12 A. No, sir. I mean it would be documented if they said stop  
13 doing it and then he kept doing, and now it became like a  
14 disobedience type thing. But, again, if he was told to stop, which I  
15 don't know if he was or not, it would be something that's just -- a  
16 verbal correction -- you don't document every verbal correction you  
17 make. I mean, that's a lot of writing for unnecessary stuff. If I  
18 tell you to stop doing something, you stop doing -- especially if he  
19 stops doing it.

20 Q. Okay, so if you turn to Page 56 of 109. This is from the  
21 15 December weekly report. And now we've got three separate things  
22 that are noted both on 8 December, 9 December -- or both on 8 and 9  
23 December I should say.

1 MJ: What page?

2 CDC[MR. COOMBS]: Sorry, ma'am, Page 56 of 109.

3 MJ: Okay.

4 Q. So on 8 December he's observed standing in the middle of  
5 his cell with his arms spread out staring at the floor. Do you know  
6 what he was doing there?

7 A. [Looking at the document] Standing with his arms spread out  
8 and staring at the floor.

9 Q. Well do -- did you get any sort of report to indicate a  
10 guard --

11 A. If I did -- if I did --

12 Q. -- approaching him.

13 A. -- I don't recall, sir. I mean alls I know is what's  
14 documented here. I can't remember.

15 Q. Did you consider that odd behavior?

16 A. Again, you don't find prisoners doing that. So it's  
17 different. Again, is it extreme odd? No. I mean there's plenty of  
18 more odd things I can do.

19 Q. Well, was this one of the odd behaviors that you factored  
20 in when we talked about why you had him in POI?

21 A. Yes, sir. Anything that was put in there, yes, sir.

22 Q. Did you approach PFC Manning and ask him, hey, why on 8  
23 December were you standing with your arms spread out?

1           A.    If I did I don't remember specifically, sir. I mean -- I  
2   can't remember.

3           Q.    Then we see on 9 December, PFC Manning apparently was  
4   dancing in his cell. And here you -- it says the entry was based  
5   upon you. Is that correct?

6           A.    [Looking at the document] Yes, sir, I asked him what kind  
7   of -- it looks like I asked him, hey, what you mean he was dancing?  
8   How was he dancing? Or what was he doing? Or -- they wrote or said  
9   something to make me ask an extra question it looks like.

10          Q.    I mean did you actually see PFC Manning dancing in the  
11   "aria toc"[phonetic] dancing style or is that what was reported to  
12   you?

13          A.    No, that was reported to me. It says I was informed. I --  
14   I never saw him dancing in his cell.

15          Q.    All right. And then you see 9 December where it's  
16   annotated that PFC Manning has previously been observed -- so -- I  
17   don't know if that's on that day or another day, playing peek-a-boo  
18   with himself in his cell mirror. Do you see that?

19          A.    [Looking at the document] Correct, sir.

20          Q.    Now did you consider that odd behavior?

21          A.    Yes, sir, again it's not -- it's not normal.

22          Q.    Did you approach PFC Manning about that as his counselor  
23   and ask him about it?

1 A. If I did I don't remember specifically, sir.

2 Q. And -- and if we could let's just go back real fast to 1  
3 December and look at your counseling notes. That would be back on  
4 Page 49.

5 [The witness did as directed.]

6 Q. You said towards the end of December going into the first  
7 part of January, you had this moment when you were walking out of the  
8 confinement facility where you thought, you know, what, maybe I'm  
9 going to recommend that he go down to MDI. Do you recall saying  
10 that?

11 A. Yes, sir, I -- I was talking to Staff Sergeant Jordan.

12 Q. All right. So we see in 1 December where you still report  
13 him as being quiet. Do you see that?

14 A. [No response.]

15 Q. And, in fact, you say he's more quiet than usual and seems  
16 less interested in engaging in conversation?

17 A. Where are we at, sir?

18 Q. On 1 December, Page 49.

19 A. [Looking at the document] Yes, sir.

20 Q. All right, so at least at that point there's been no real  
21 change, right?

22 A. What do you mean? His communication with me, sir?

23 Q. Right.

1           A.    No, by -- by 1 December he was talking to me more.  And  
2   then maybe -- maybe this week he talked to me less that week than he  
3   had the week or two before.  But there -- there was -- there was no  
4   evolving -- there was no progressing at this point.  Maybe this time  
5   -- maybe this week -- it just didn't that day.

6           Q.    All right, so some of -- I guess some of your eval's more  
7   capture where he was more talkative with you or less just depending  
8   upon the day?

9           A.    Yes, sir.  I mean it's a weekly report -- depending on that  
10   week in general.  I know by 1 -- by December 1st, we had -- our  
11   communication had gotten better.  This one that this is referring to  
12   maybe just been that day or that time or sometime that week while I  
13   was writing this report, he was quiet more -- more than usually.

14          Q.    Can you go to 15 December, which would be Page 55?

15          [The witness did as directed.]

16          Q.    Do you see there where it says SND stated he was doing  
17   well; had no problems or concerns?  SND was quiet during the  
18   interview and showed no interest in conversation.

19          A.    [Looking at the document] Yes, sir.

20          Q.    So was this just another day where maybe he wasn't as  
21   talkative with you?

22          A.    It may have been, sir.  I can't remember what happened 15  
23   December 2010.



1 Q. Okay, but -- I guess, in general, you thought starting  
2 sometime before 1 December things were getting better.

3 A. Yes, sir. If I remember correctly, I mean, this is a long  
4 timeframe. I remember by November we were probably getting clearer  
5 conversation. Not every time we spoke was it a great conversation,  
6 but it wasn't a "never" issue anymore.

7 Q. Okay, can you look at Page 58?

8 [The witness did as directed.]

9 Q. This is from your 22 -- this would be your 20 December, but  
10 it's on the 22 December report through. It says here at SND was  
11 upset about something, but when asked SND did not speak about what  
12 was bothering him. So apparently you were trying to have a  
13 conversation with him but he didn't want to speak to you about  
14 whatever was bothering him. I mean you guessed at it. Do you see  
15 that?

16 [Looking at the document] Yes, sir. So it -- I got the  
17 impression that something was bothering him. I asked if something --  
18 if he was okay -- if something was bothering him. And he said he  
19 didn't want to speak about it.

20 Q. Okay. So the odd behavior, and I guess these weekly  
21 eval's, at least at the times when he's not speaking to you, those  
22 things were not so important that it caused you to think at least in  
23 early January when you testified earlier, that they weighed so

1 heavily that I'm not going to now recommend him to come off of POI.

2 Remember when you're walking out with Jordan?

3 A. Yes, sir.

4 Q. And you said, you know, what, I think -- I think I'm going  
5 to do it now. I'm going to recommend that he come off of POI?

6 A. Yes, sir.

7 Q. So all the stuff that we've just talked about in just maybe  
8 the two to three weeks previous to this time period where now you're  
9 going to recommend him come off of POI, that stuff didn't weigh very  
10 heavily in your mind then?

11 A. It did, sir. That's why I didn't recommend him come off.  
12 I was considering it. And that's why when we were talking about it -  
13 -

14 Q. Right.

15 A. I mean we talked about it on a Friday, which means the C&A  
16 board probably went on the same day, so I was probably telling him,  
17 hey, I'm going to give him one more week and I think -- I didn't say  
18 I'm definitely doing it. I said I'd -- I think I am. And I was. I  
19 was serious kicking around the idea. I mean I was damn near ready.  
20 One more week.

21 Q. Okay, and then ----

22 A. So why did I get those feelings specifically? Sir, you're  
23 trying to ask me what I was thinking two years ago.

1 Q. I am. So at least at this point you -- you don't know  
2 really why you were saying to yourself just one more week and I'm  
3 going to do it?

4 A. I can tell you, sir, that -- as I look at it right here,  
5 when I told Staff Sergeant Jordan, hey, one more week and I think I'm  
6 about ready to recommend him coming off POI, I had good reason to  
7 think that, sir. What those reasons were? I don't remember.

8 Q. All right. Now did you -- I guess with Captain Hocter  
9 leaving and you getting Colonel Malone now, did Colonel Malone's  
10 opinions when he started making the kind of same recommendations --  
11 did that then kind of factor a little bit more for you?

12 A. I don't remember Colonel Malone being there in the middle  
13 of December, sir.

14 Q. I'm not talking about the middle of December. When Captain  
15 Hocter leaves on January 18th -- that's really his last day doing  
16 anything --

17 A. Okay.

18 Q. -- of 2011. And you switch over to Colonel Malone.  
19 Colonel Malone's making the same type of recommendations as Captain  
20 Hocter, right?

21 A. Yes, sir. He -- I think he recommended him coming off. I  
22 think he might have recommended staying on once. I -- I'd have to  
23 look at the papers to see exactly what he wrote.

1 Q. All right. But -- and we can look at the eval's if you  
2 want. But would you agree with me that Colonel Malone was  
3 consistently recommending that PFC Manning come off of POI? Or at  
4 least make it accurate, he was saying there was no clinical reason  
5 for PFC Manning to be on POI?

6 A. That -- that sounds familiar, sir.

7 Q. And was Colonel Malone's recommendation then -- was that a  
8 factor that weighed more heavily than Captain Hocter's?

9 A. Yes, sir, because I remember being able to talk to Colonel  
10 Malone more than -- now I didn't talk to Colonel Malone every time.  
11 And I think when he first came on deck he -- he did. There was a  
12 couple of times where he left where we didn't get a chance to speak  
13 with him. I think that was more he just didn't -- maybe he -- maybe  
14 he wasn't clear on the expectation -- whatever. But we did  
15 communicate with him better. I -- I do remember him making more  
16 comments. And if I'm not mistaken, I believe it was Colonel Malone  
17 that actually changed the eval' form from the one that the brig was  
18 using prior to it. I think Colonel Malone brought a form that he had  
19 used previously to -- wherever he came from -- he wanted to use that.  
20 I think that was him that changed that.

21 Q. And do you recall Colonel Malone -- when some of these  
22 other behaviors that you were documenting and they were brought up to  
23 him, do you recall Colonel Malone saying that these are not odd

1 behaviors that you need to worry about?

2 A. He -- he may have. I don't doubt it. I'd have to see. I  
3 don't remember specifically. But that sounds fairly accurate, sir.

4 Q. Can you explain why then -- and let's just start now from  
5 right after the 18 January incident forward. When Colonel Malone, on  
6 21 January, recommends that PFC Manning come off of POI, can you  
7 explain why the board didn't follow that recommendation?

8 A. Because now we're talking about after the 18 January  
9 incident, sir?

10 Q. [Responded in the affirmative.]

11 A. We're talk -- this is the squad bay if I remember correctly  
12 -- on 18 January. Now -- and when I felt like, hey, I'm about a week  
13 away from recommending him come off POI, this is before 18 January.  
14 And then -- in fact, the 18 January incident, if I remember  
15 correctly, the week I was about to recommend him coming off of POI --  
16 if -- if I remember correctly. Then that incident happened. And  
17 Colonel Malone says, hey, he's ready to come off. Yeah. Did we  
18 consider it? Sure. I also had to consider that this whole January  
19 18 incident happened as well.

20 Q. Okay, but you said now you've got a doctor that you  
21 communicate better with and you apparently like the new form that  
22 he's using. So I want to show you Page 24 from Enclosure 21 of AE  
23 259. And I'll retrieve -- just so you don't have too many things in

1 front of you Enclosure 22 and also Enclosure 32 [handing documents to  
2 the witness and retrieving documents as indicated]. This is Colonel  
3 Malone's mental eval', correct?

4 A. [Looking at the document] Yes, sir.

5 Q. And what does he say about the need for POI?

6 A. [Reading from the document] No current suicidal thoughts or  
7 intent. Psychiatrically cleared to come off of POI.

8 Q. All right. So I'll retrieve the exhibit from you  
9 [retrieving the document from the witness]. So here when you're  
10 looking at that as a board member, and you were the senior board  
11 member for the 21 January board, why didn't you at that point  
12 recommend PFC Manning to come off of POI?

13 A. This after January 18? Was the ----

14 Q. Yes.

15 A. The January 18 incident had a huge factor in it.

16 Q. And how so?

17 A. Because as far as his conduct, behavior, communication, all  
18 that, then that incident happened. That incident very similar to the  
19 one he had in Kuwait.

20 Q. And what did that mean to you, I guess?

21 A. That he's having an incident that's almost identical to the  
22 one that had -- he had in Kuwait right before he made a noose in his  
23 cell, I'm like, do I expect that coming next?

1 Q. Did you talk to Colonel Malone, now that he's more  
2 accessible, about your concerns?

3 A. I probably did, sir. I mean, do I remember specifically,  
4 no. Like I said, when he first came on deck there was a couple of  
5 times where he did come in and we didn't get a chance to speak with  
6 him. And sometimes we did and sometimes we didn't speak with him. I  
7 don't remember if I talked to him that day about that incident. I --  
8 I can't remember.

9 Q. All right, do you recall ever speaking to Colonel Malone  
10 about his subsequent eval' -- recommendations that PFC Manning --  
11 there's no clinical reason for him to be on POI?

12 A. Sir, I remember speaking with Colonel Malone. I don't  
13 remember the context of any of the conversations. And I remember  
14 speaking to him a couple of times, not every time he came there. So  
15 the answer to that question is -- do I specifically remember speaking  
16 to him about that, no, I don't.

17 Q. But I guess you -- you're saying earlier if I had a doctor  
18 that I could actually talk to and get him or her to express to me why  
19 they're making their recommendation that would weigh more. And  
20 that's something I'd really want. So now you've got that doctor.  
21 Did you take the opportunity to talk to the doctor more?

22 A. I did speak with him, sir.

23 Q. And what was he telling you?

1           A.    I don't remember the context of the conversations at all,  
2   sir.

3           Q.    Do you remember your questions at all?

4           A.    No, sir. I don't remember the context of the  
5   conversations.

6           Q.    Okay. So let's talk -- the trial counsel asked you a  
7   question about this, but I want to go into a little more detail on  
8   it.

9           [Pause]

10          CDC[MR. COOMBS]:    I'm handing you what's been marked Appellate  
11   435 Echo. Do you recognize this [handing the document to the  
12   witness].

13          Q.    Do you recognize this?

14          A.    [Looking at the document] Yes, sir.

15          Q.    All right, so this in res -- basically dealing with a  
16   package that you received from Amazon.com, correct?

17          A.    Yes, sir; the one that came in from the construction  
18   workers.

19          Q.    Right. And it was on 13 December 2010 that you received  
20   this package that was addressed to PFC Manning?

21          A.    Yes, sir.

22          Q.    And you asked PFC Manning about it. And he thought it --  
23   it might be from a family member sending him something for his



1 upcoming birthday?

2 A. Correct, sir.

3 Q. And in this instance his birthday is December 17th?

4 A. Yes, sir.

5 Q. And you said that the reason you sent the package back  
6 because PFC Manning had not previously requested the package from  
7 Amazon?

8 A. That and one other reason, sir.

9 Q. Yeah. And the other reason was because there was no pre-  
10 approval given by the Brig OIC for the package?

11 A. Yes, sir.

12 Q. And then because we felt like being dicks?

13 A. Yes, sir. And also the manner in which it came in.

14 Q. All right, well I want to concentrate on the one I asked  
15 you about then. Why'd you write that?

16 A. I was joking with Chief Warrant Officer Averhart and Master  
17 Sergeant Papakie.

18 Q. You were joking about this?

19 A. Yes, sir, I was joking with them.

20 Q. So you thought it was funny that you sent the package back?

21 A. No, not that I sent the package back. I was joking about -

22 ---

23 Q. Apparently you have a -- then why did you think this was a

1 funny joke?

2 A. I was joking with them as far as my verbiage.

3 Q. Your verbiage of saying we felt like being dicks?

4 A. Yes, sir.

5 Q. And this verbiage is going to your commander, is that  
6 correct?

7 A. Yes, sir.

8 Q. And going to your immediate supervisor?

9 A. Yes, sir.

10 Q. And when you sent those comments did you view those as  
11 professional?

12 A. No. I mean it wouldn't fall under the definition of  
13 professional.

14 Q. No they wouldn't. So then when you looked at that as --  
15 from the prospective of being PFC Manning's counselor, did you think  
16 that that was being professional?

17 A. Sir, this is sent in-house to Master Sergeant Papakie and  
18 to Chief Warrant Officer Averhart. This -- the exact paragraph with  
19 a period instead of a comma after Brig OIC is either in another email  
20 or maybe a CORMIS note, this exact part is someplace else.

21 Q. I'm sorry?

22 A. This exact paragraph without the last six words in the  
23 comma at the period, that is someplace else. It's either in CORMIS

1   someplace or it's in somebody else's email. It's an email I sent  
2   out. This is a draft of a response to something or a note that I  
3   might have put in CORMIS. I see a 2 in the parenthesis at the  
4   beginning of the paragraph.

5           Q.    Right.

6           A.    So that tells me it might be in CORMIS 'cause it looks like  
7   part of a CORMIS entry.

8           Q.    But you actually sent this email --

9           A.    So if -- if -- so ----

10          Q.    -- in its entirety to your supervisor?

11          A.    Correct, sir.

12          Q.    And when you sent it to your supervisor -- you're PFC  
13   Manning's counselor and, as you said, his advocate, is that correct?

14          A.    Correct, sir.

15          Q.    And you thought at this point based upon PFC Manning told  
16   you that it could be a birthday package for him from a family member,  
17   right?

18          A.    That's what he told me. He thought -- he thought it might  
19   be a package -- my birthday's coming up. It might be a package from  
20   my family for my birthday.

21          Q.    Would -- would common sense be maybe we could take a look  
22   at it, see what it is --

23          A.    Absolutely not, sir.

1 Q. -- and then -- and then see based on the fact that it's his  
2 birthday and we're worried about him not having a lot of interaction  
3 with his family because he's got a poor home life condition that  
4 maybe would allow him to have the package.

5 A. No, sir. It came in from a construction worker.

6 Q. And why did it come in from a construction worker?

7 A. The mailman dropped it off to him. I don't know.

8 Q. Well did you ask?

9 A. I wasn't there. I didn't receive it.

10 Q. Well, did you find out how the construction worker brought  
11 it to the brig?

12 A. If I did, I don't remember how the construction worker got  
13 it.

14 Q. Did you know --

15 A. But alls I know ----

16 Q. -- that the -- there was construction right outside of the  
17 brig, right? Correct?

18 A. Yes, sir.

19 Q. During that time?

20 A. Yes, sir.

21 Q. And the construction was basically right in front of the  
22 brig going up towards the front entrance of the brig, correct?

23 A. Yes, sir.

1 Q. Would it make sense to you that a UPS driver might give it  
2 to the construction worker, and then the construction worker sees  
3 that it's addressed to the brig, and bring it to the brig?

4 A. Do I see it as being possible? Yes. Does it make sense?  
5 Absolutely not. And it also makes sense that this construction  
6 worker could also very well be bringing us a package that, you know,  
7 is some kind of threat being we were receiving all kinds of threats  
8 over the phone.

9 Q. Okay. So you thought that ----

10 A. That seemed more realistic to me than the post office just  
11 delivering it to a random construction worker on the side of the  
12 road.

13 Q. So you thought the construction worker delivering the  
14 package it could be a potential danger to the brig?

15 A. Absolutely, sir.

16 Q. What did you guys do with the package?

17 A. I don't -- I don't deal with the mail, sir. I never saw  
18 the package. I didn't touch the package that I remember. The  
19 mailroom, they processed it and returned it somehow I think, sir.

20 Q. So you didn't call EOD or bomb disposal or anything like  
21 that?

22 A. What the direction was from that point, sir, I don't know.  
23 Again, the mailroom didn't fall under me. I didn't deal with the

1 mailroom and the disposal or receipt of or, you know, disposition of  
2 mail.

3 Q. Now I guess at the time you sent this email, Chief Averhart  
4 didn't reprimand you, correct?

5 A. If he did verbally -- I mean, not in an email. But he may  
6 have. But, I mean, I don't remember specifically if he did or not.

7 Q. You don't remember your commander reprimanding you?

8 A. Not in writing, sir. No. I definitely never received  
9 anything in writing.

10 Q. How about verbally?

11 A. If I did, I don't remember, sir.

12 Q. Well it looks like the commander sends back in just a --  
13 you crazy, Gunny. Is that what you see?

14 A. [Looking at the document] Yes, sir.

15 Q. So that's his response to this?

16 A. That's his written response, yes, sir.

17 Q. So did you think he thought what you said was funny?

18 A. Sir, when I received this email that was the last of this  
19 whole paragraph aside from me deleting that part and either putting  
20 it in CORMIS or sending it on the email to -- I think it was a CORMIS  
21 note on CORMIS ----

22 Q. Well that's not my question. You said you sent a joke --  
23 that this was just a joke. So his response did you think he thought

1 what you said was funny?

2 A. Really didn't think whether he did or did not think it was  
3 funny or not.

4 Q. Were there other instances where you've behaved  
5 unprofessionally with respect to PFC Manning?

6 A. Not that I can think of specifically. I mean I -- I don't  
7 know.

8 Q. Nothing comes to mind?

9 A. Nothing comes to mind specifically, no.

10 Q. Okay.

11 [Pause]

12 CDC[MR. COOMBS]: I'm showing you -- actually I'm going to  
13 retrieve from you what's been marked Appellate Exhibit 435 Echo, and  
14 handing you Appellate Exhibit 435 Fox [retrieving the documents and  
15 handing the documents to the witness as indicated].

16 Q. In this email you basically write, if you're cold the  
17 latest issue of Manning Times should help warm you [reading from the  
18 document]. What did you mean by that?

19 A. The -- at this point in the brig the heat was out in the  
20 brig. And I don't remember if it's before or after the CO had  
21 contacted -- I can't remember if it was Colonel Oltman or Colonel  
22 Choike about the heat being out or something like that. And this was  
23 just a response to that.

1 Q. So how did the -- how does the heat being out at the brig  
2 and reading PFC Manning's report ----

3 A. I knew being cold inside the brig was an issue. So and  
4 this was being done ----

5 Q. Well it seems like it's a joke.

6 A. I see it's attached -- I see it's attached, so this is me  
7 sending them the weekly report.

8 Q. Okay. And why would that help keep 'em warm?

9 A. It wouldn't keep them warm, sir. This is me -- this is me  
10 probably touting them about being cold or something like that.

11 Q. So you didn't mean that as a joke about PFC Manning?

12 A. No that's not a joke about Manning. That's me talking  
13 about them being cold meaning the Brig staff.

14 CDC[MR. COOMBS]: Okay, so I'm retrieving Appellate Exhibit  
15 435 Fox and handing you Appellate Exhibit 435 Gulf [retrieving the  
16 documents and handing documents to the witness as indicated].

17 Q. Do you recognize that?

18 A. [Looking at the document.] I ----

19 Q. This apparently is on -- do you recognize that email?

20 A. I think so, sir. I mean I see I'm on the cc line.

21 Q. Yeah, and on 4 March 2011, you receive this email from  
22 Master Sergeant Papakie, and he says "Gents, make sure he's not  
23 standing naked at attention for evening count right before taps. You



1 should be taking his panties right before he lays down." Do you see  
2 that?

3 A. Yes, sir.

4 Q. Did you ever personally refer to PFC Manning's underwear as  
5 panties?

6 A. I probably did, sir.

7 Q. And why did you refer to them as panties?

8 A. That -- I refer to underwear as panties all the time.

9 Q. So you call your underwear panties?

10 A. Sometimes I do, sir.

11 Q. And that's just how you -- you don't associate panties with  
12 female underwear?

13 A. Yes, sir. But, I mean, I sometimes call underwear in  
14 general as panties.

15 Q. That's your testimony?

16 A. Yes, sir.

17 Q. Did you ever lie to PFC Manning about the fact that Captain  
18 Hocter wasn't recommending that he come off of POI?

19 A. No, sir.

20 Q. You never told him that Captain Hocter is the one who's  
21 keeping him on POI?

22 A. No, sir.

23 Q. That's your testimony?

1 A. No, sir, I don't ever remember saying that.

2 Q. You never remember telling him, hey, look it's the doc's  
3 that are keeping you on POI? I wish I had 100 Mannings?

4 A. I remember saying -- telling -- I remember saying I wish I  
5 had 100 Mannings from just -- and I don't think it's part of my  
6 quote. But from a discipline standpoint and to this day, yeah, from  
7 a discipline standpoint, he was a zero discipline problem at all.

8 Q. You don't remember ever telling him though it was the  
9 doctors that were keeping him on POI and not you?

10 A. Not that I recall, sir. And it wasn't me keep him on  
11 either. I just make a recommendation.

12 Q. You would agree that your recommendation was pretty  
13 important?

14 A. It was important. I'm assuming. I mean he -- that's a  
15 better question for the commanding officer. But -- yeah, I -- I hope  
16 my recommendation was important.

17 CDC[MR. COOMBS]: I'm retrieving Appellate Exhibit 435 Gulf  
18 from the witness [retrieving the document from the witness].

19 Q. I want to talk about some of the things that PFC Manning  
20 was counseled for.

21 A. Like -- you talking about discipline?

22 Q. Just in general.

23 A. Like from the guard staff?

1 Q. Yeah. So I'm going to hand you again Enclosure 22 from  
2 Appellate Exhibit 259 [handing the document to the witness]. If  
3 you'd turn to Page 62.

4 [The witness did as directed.]

5 Q. One of the first notations I see about PFC Manning being  
6 counseled was on 25 December 2010. And here you see he's being  
7 counseled because he re -- he apparently requested to end his  
8 recreation call early but didn't fill out the paperwork. Is that  
9 correct?

10 A. [Looking at the document]

11 Q. It's at Number 3.

12 A. Yes, sir.

13 Q. And you apparently then counseled him that the written  
14 statement is not designed to be adverse in nature but only for  
15 documentation purposes?

16 A. Yes, sir. Yes, sir. Okay, I remember explaining to him  
17 the purpose of -- in this case the voluntary statement for securing  
18 rec' call.

19 Q. Now in this instance here what were you telling him to do  
20 then?

21 A. I'm not telling him to do anything. I was explaining to  
22 him that the voluntary statement he's written, it's not punitive.  
23 Because I think this is right after he told us that he was instructed

1 by either you or another member of the defense team not to sign  
2 anything inside the brig. And I think at this point this is where --  
3 then this rec' call incident comes up, and then the guards ask him to  
4 fill out a voluntary statement, which he had previously as far as --  
5 I'm pretty sure he probably had previously. And then he stopped.  
6 And then I explained to him that the voluntary statement saying, hey,  
7 you don't want rec' call -- that you want your rec' call ended early  
8 or don't want it at all, it's just you putting it on paper saying  
9 that this is your choice and it's not the brig refusing it to you.

10 Q. And did you inform him that he needed to fill out the  
11 forms?

12 A. No, I never said, hey, you have to fill it out -- I mean  
13 this is a requirement. You have to fill it out.

14 Q. So he could refuse to fill out the form?

15 A. Sure he could. I mean if that was the case then we would  
16 just write an incident report.

17 Q. And would he be -- when you say "incident report" what do  
18 you mean?

19 A. If -- and this is anything, but we'll use rec' call for an  
20 example; you don't want to go out to rec' call, okay, hey, please  
21 fill out a voluntary statement saying you're opting to not go out to  
22 recreation call today. I don't want to sign that. Look, it's not  
23 punitive in nature. It's just you putting on paper that you don't

1 want to go out to recreation call, that the brig's not denying it. I  
2 ain't signing nothing. Okay, good to go. At that point that guard  
3 or DBS, they're going to fill out an incident report saying, hey, on  
4 this date and time, you know, prisoner so-and-so was allowed to --  
5 was offered to go out to recreation call. He chose not to go out  
6 there. We asked him to write a voluntary statement. He said he  
7 didn't want to write it. We explained to him that writing a  
8 voluntary statement is not punitive; we're just putting it on  
9 documentation the reason. He still says he's not signing anything.  
10 So now I'm writing an incident report just to annotate that he hasn't  
11 been -- he don't want to go to rec' call and he didn't want to  
12 provide a statement.

13 Q. All right.

14 A. That's about the gist of what the voluntary -- or the  
15 incident report would say.

16 Q. Okay. Turn to Page 89 now.

17 [The witness did as directed.]

18 Q. This is Number 4 on this. On 28 February, PFC Manning  
19 apparently lined out several areas of the form after declining  
20 apparently rec' call. And according to the report he was told that  
21 he wasn't permitted to alter the form but he didn't have to fill it  
22 out. Do you recall this?

23 A. [Looking at the document] I think so, sir. Yes, sir, I

1 remember. I don't remember the incident, but I -- I remember typing  
2 this.

3 Q. And why couldn't PFC Manning alter the form?

4 A. It's an OBDVS[phonetic]form, sir. I mean, any kind of DD  
5 form we don't just modify the forms. We fill out the form as it's  
6 designed. I'm not -- I don't remember what he -- how he modified it.  
7 I mean, I don't even know if I ever saw this. Honestly, I might  
8 have. But however he modified it, but an actual standardized form,  
9 we don't modify. You fill out as it is created.

10 Q. And apparently after that he was counseled by the Brig OIC  
11 for modifying the form?

12 A. [Looking at the document] Yes, sir.

13 Q. Other than this, do you recall any sort of conduct by PFC  
14 Manning that would indicate he was a disciplinary problem?

15 A. Sir, until I read this I don't remember any incidents of  
16 him being a discipline problem.

17 Q. And would you -- I think you just said earlier that that's  
18 why you would have said I wish I had 100 Mannings?

19 A. Right, from a discipline standpoint. Yes, sir. I mean  
20 he's -- zero trouble. I've had certain prisoners -- give them two  
21 DR's a week. You know, from a discipline standpoint, he -- no  
22 problems.

23 Q. All right, so now let's talk about the 18 January incident,

1   okay?

2       A.   Yes, sir.

3       Q.   On 18 January what do you recall happening?

4       A.   I wasn't there when it happened, sir, so -- the -- from  
5   what I remember the incident that happened was -- I guess he -- he's  
6   getting taken down to a dorm -- the recreation dorm. And I don't  
7   know if it was either in special quarters on the way to the dorm or  
8   actually in the dorm -- he was counseled by Tankersley -- Tankersley  
9   about something. I can't remember now. It might have been rank --  
10  using rank -- something like standing at parade rest, sir. I can't  
11  remember now. He's counseled about something, corrected, brought  
12  down to the dorm. And when he got to the dorm he -- this is me  
13  remembering a report -- I guess the restraints were removed and then  
14  -- I don't know immediately or shortly after, I guess he had some  
15  kind of anxiety attack or a panic attack or something like that. And  
16  he went and hid behind a machine or something like that. I -- I --  
17  at some point it got resolved and he did recreation call and went  
18  back to his cell later on.

19       Q.   Do you recall an incident afterwards where you ultimately  
20  then came down to PFC Manning's cell to talk to him?

21       [The trial counsel's microphone and subsequent recording began  
22  to pick up feedback distortion noises.]

23       A.   Yes, sir, after all that happened -- the recreation call

1 happened and he went down to his cell -- sometime after -- and I  
2 don't know how much longer -- later, he came down -- or I found out  
3 about it. At that point I ended up coming down to -- down to special  
4 quarters and talking to him. By that point he was already calmed  
5 down. He was agitated, but -- I think he was upset about something,  
6 but I mean he -- he wasn't like acting out.

7 CDC[MR. COOMBS]: I'm showing you what's been marked as Appellate  
8 Exhibit 435 Hotel [handing the document to the witness]. I want to  
9 play the video and have you look at that 435 Hotel along with the  
10 video.

11 TC[MAJ FEIN]: Your Honor, one moment, please. The United  
12 States would at need to request time to verify that this is going to  
13 be a verbatim transcript of the references they want. Even in the  
14 defense's motion it's not accurate.

15 MJ: Well what do you want to do?

16 TC[MAJ FEIN]: Well, I guess it depends on the defense's plan  
17 going forward. If it's just simply for reference then we'd ask for  
18 about 10 minutes to verify this -- our version.

19 MJ: All right. I'll let you do that. How long do you want?

20 TC[MAJ FEIN]: 20 minutes, ma'am. We'll let you know if it's  
21 going to be longer.

22 MJ: All right. Court is in recess until five minutes to seven.

23 **[The Article 39(a) session recessed at 1835, 2 December 2012.]**



1 [The Article 39(a) session was called to order at 1853, 2 December  
2 2012.]

3 MJ: This Article 39(a) session is called to order. Let the  
4 record reflect all parties present with the court last recessed are  
5 again present in court. The witness is on the witness stand.  
6 Anything from the government?

7 TC[MAJ FEIN]: No, ma'am.

8 MJ: No objection?

9 TC[MAJ FEIN]: No objection, Your Honor.

10 MJ: All right, proceed.

11 [Continued cross-examination.]

12 Q. Master Sergeant Blenis, I remind you you're still under  
13 oath.

14 A. Yes, sir.

15 Q. What I'd like to do is I'd like to play the video that was  
16 captured of you speaking to PFC Manning after he was ordered onto SR.

17 A. Yes, sir.

18 Q. Okay?

19 A. Yes, sir.

20 Q. And below that -- the appellate exhibit you have is  
21 basically almost a verbatim transcript. It's -- some of the  
22 information is hard to hear, but I want you to watch the video or  
23 listen to the video and see what's being said. At the same time I'm

1 going to ask you a few questions, okay?

2 A. Yes, sir.

3 **[The video as indicated was played in open court is full view of**  
4 **all court participants.]**

5 Q. All right, I want to ask you a few -- a few questions about  
6 that video. And I know it wasn't exactly verbatim, but you admit  
7 that it was not normal to keep someone on POI for so long.

8 A. No, sir.

9 Q. What was the longest you've had somebody on POI at the  
10 brig?

11 A. During my -- while I was at Quantico this time?

12 Q. Or anytime.

13 A. Ever that I've seen probably a month probably was the  
14 longest.

15 Q. So PFC Manning was --

16 A. By far the longest.

17 Q. -- by far the longest?

18 A. Yes, sir.

19 Q. And you indicate -- as we go on you say to PFC Manning,  
20 we're going to lessen your restrictions, but that never really  
21 happened for him, correct?

22 A. It did, sir, started and -- actually -- previous to this  
23 incident when I started recommending the recreation calls, the

1 correspondence time. I thought there was something else. I can't  
2 remember now. But -- and -- I tell you right -- right before this is  
3 when I was damn close to recommending him coming off POI. But as far  
4 -- no, he -- did he ever get lessen restrictions as far as coming off  
5 of POI? No, that never happened.

6 Q. And you see here where -- and I'm just going to highlight  
7 it so that -- and bring it out [highlighting the exhibit on display]  
8 -- you see where PFC Manning says that he doesn't understand why --  
9 why the continuation of the policy and restrictions beyond the time  
10 recommended by you and the psychiatrist. See where he's saying you  
11 and the psychiatrist apparently are making the same recommendations?

12 A. [Looking at the exhibit] I -- I -- yes, sir.

13 Q. Do you know why PFC Manning might have thought that you and  
14 the psychiatrists were making the same recommendations?

15 A. Maybe because -- he just assumed because he was still on  
16 that status, maybe he assumed that the psych' was recommending that,  
17 I think, sir. I mean, I ----

18 Q. Did you ever tell him -- I know you previously testified  
19 that you never told him that the psychologists were recommending that  
20 he remain on POI?

21 A. No, I don't -- I don't ever remember telling him, hey, the  
22 psychologists are saying you've got to stay on POI. I don't remember  
23 telling him that.

1 Q. Were you telling him that you were recommending that he  
2 remain on POI?

3 A. Yes. As a matter of fact, I think during the actual -- the  
4 C&A board. I mean, in fact, I remember telling him that -- now I  
5 don't remember if it was before or after the first -- maybe the  
6 second C&A board -- the C&A board that happened on -- in January --  
7 talking about it. And I wanted to make sure he understood that at  
8 the C&A board I am the programs chief. Yes, I'm your counselor.  
9 Understand that -- that it's two different hats that I'm wearing. I  
10 want him to understand that because I think at this point he was  
11 talking to me pretty well. And I didn't want him to see when I was  
12 recommending that he stay on POI status, I didn't want that to affect  
13 our communication that was finally starting to develop.

14 Q. All right.

15 A. So I remember explaining that to him during -- that --  
16 that's the only time I specifically remember saying that.

17 Q. Now do you see up above that where he says, I mean, at  
18 least at the staff level, I'm thinking the CO, me, myself,  
19 personally? That's where he talks about the facility's looking for  
20 reasons to keep him on POI. And you respond to him essentially that  
21 that's not the case. Do you see that [referring to the exhibit]?

22 A. Yes, sir.

23 Q. And that wasn't true was it?

1       A.    No, sir, we weren't looking for a reason. We were hunting  
2 and -- hey, what do we got to do to keep this guy on POI? No, that's  
3 -- no, we weren't looking for reasons to do it.

4       Q.    No, but PFC Manning said ----

5       A.    I was looking for a reason to take him off.

6       Q.    ---- PFC Manning said he thought the CO was keeping him on  
7 POI -- looking for reasons and keeping him on POI. And you said that  
8 wasn't the case. Is that right?

9       A.    Correct, sir, meaning we're not looking for a reason to  
10 keep him on POI. We weren't hunting and searching for a reason to  
11 justify our recommendation.

12       Q.    Can you turn to Page 65 of 109 on Enclosure 22 that's in  
13 front of you?

14       [The witness did as directed.]

15       MJ:   What page?

16       CDC[MR. COOMBS]:   Page 65 of 109.

17       Q.    And when you look down at Echo(2).

18       A.    [Looking at the document] Yes, sir.

19       Q.    Do you see where the Brig OIC approves and directs that SND  
20 remain in heightened security status, i.e. prevention of injury,  
21 until SND completes the pending 706 board.

22       A.    Yes, sir.

23       Q.    As the counselor for PFC Manning were you aware of the fact

1 that Chief Averhart decided to keep PFC Manning on POI until the 706  
2 board was completed?

3 A. I remember when Chief Warrant Officer Averhart told me to  
4 put this sentence in there, I remember -- I'm not sure if this is the  
5 first one -- I think it's in a few of them actually -- I don't know  
6 if this is the first one -- but I remember him telling me, hey,  
7 annotate this in that sentence there.

8 Q. And do you remember telling me that PFC Manning was going  
9 to remain on POI until the 706 board was completed?

10 A. I don't remember specifically, sir. I may have. I'm not  
11 going to say no. I mean, I just don't remember.

12 Q. Your understanding as you sit there now was what regarding  
13 the 706 board and PFC Manning's POI status?

14 A. I understand that the -- what you're talking about my  
15 understanding of the CO's -- the CO's saying right here?

16 Q. [Responded in the affirmative.]

17 A. My understanding is I understand what the intent was that  
18 he, you know, that he -- he was waiting for the 706 hearing to  
19 happen.

20 Q. Do you recall us talking about that? And I told you that  
21 the 706 board hadn't even been ordered to resume yet?

22 A. That does sound familiar, sir. I remember it took -- I  
23 remember the 706 hearing went well over it was scheduled, I think. I

1 remember we thought it was supposed to happen at one point and it  
2 went later. I don't remember how much later. I seem to recall that  
3 conversation, sir.

4 Q. Do you remember me telling you that the 706 board probably  
5 wasn't going to get completed until March at that point?

6 A. I don't remember if you said March or not, sir. But I  
7 remember we talked it's getting delayed for something -- I don't  
8 remember a timeframe, but -- yeah, that sounds familiar, sir.

9 MJ: Can I ask a question on that. When you talked about it are  
10 you talking about it contemporaneously in time or recently?

11 CDC[MR. COOMBS]: Contemporaneously in time, Your Honor.

12 Q. So you recall having a conversation at this time basically  
13 the -- late 2010, early 2011 with me about the 706 board?

14 A. Yes, sir, I remember we talked on the phone.

15 Q. And do you recall me expressing concern with -- to you  
16 about the fact that if the CO kept him in until the 706 board was  
17 completed that that might not happen for several months?

18 A. I don't remember specifically, sir. We may have. I can't  
19 remember now that phone conversation, sir. I remember -- I remember  
20 the conversation happening. Hell, the context of it, sir, I can't  
21 remember now. I do remember you talking about it getting delayed.

22 Q. And did you as the counselor at this point have concern  
23 about PFC Manning being in POI status for this length of time?

1           A.    Yes, sir. I mean -- I mean -- what do you mean by concern?  
2   Concern of his -- like harm or concern of his status harming him?

3           Q.    Yes.

4           A.    No, sir. I mean, I thought -- I don't remember thinking of  
5   being in this status for this length of time was harming him. I  
6   don't remember being, you know, strict -- concerned about that. I  
7   understand what he was saying here in this video.

8           Q.    All right. So the next day you have a counseling session  
9   with him after this incident, correct?

10          A.    [Looking at the document]

11          Q.    If you'd turn to Page 70 of 109. And it carries over onto  
12   71 of 109.

13          [The witness did as directed.]

14          A.    [Looking at the document] It looks like the session was on  
15   the same day -- the 18th?

16          Q.    It may have been. It looks like he has. So you had a  
17   counseling session with him after this incident?

18          A.    I don't remember if this was before or after -- before or  
19   after this incident happened when I actually sat down and talked to  
20   him.

21          Q.    Well, if you look at Page 71, the -- basically before  
22   Paragraph 2. You see where there he's explaining to you that he  
23   didn't understand why everyone was so concerned about his behavior?



1 A. [Looking at the document] Yes, sir.

2 Q. And you explained to him the nature of the brig staff's  
3 concern and their responsibility to protect him?

4 A. I'm sorry, sir?

5 Q. I said you explained to him at that point the -- apparently  
6 the brig staff's concern and what they viewed as their responsibility  
7 to protect him?

8 A. Yes, sir.

9 Q. And what was the concern that the brig staff at that point?

10 A. That he would harm himself, sir.

11 Q. And why did you ----

12 A. Or at least attempt to.

13 Q. Why did you have that concern?

14 A. Again, going back to -- starting from his history, his  
15 conduct -- I mean, at this point -- prior to let's -- let's assume  
16 we're talking before this rec' call incident happened or whatever, my  
17 -- my concern at this point was down to, you know, minimal. That's  
18 why I was ready to recommend him come off. And then this incident  
19 happened and I -- I kind of -- kind of ruined that. That brought it  
20 back.

21 Q. PFC Manning explained to you in the counseling session that  
22 he was feeling overwhelmed and he thought that everyone was  
23 scrutinizing him, correct?

1           A.    Correct, sir. I could see why he would think that. I  
2 mean, he was sighted every five minutes. And the amount of people  
3 that came down, not just facility staff, but even, you know, from the  
4 base level and -- I don't remember any tours happened from D.C. at  
5 that point.

6           Q.    So you could see how that might be kind of a drain on him?

7           A.    A drain? I don't know. I could see why he'd feel like  
8 he's scrutinized. But mentally exhausting? I -- you know, I don't  
9 know about that.

10          Q.    All right. And you testified from that point forward you  
11 considered the 18 January incident in your C&A boards?

12          A.    Yes, sir, I had to.

13          Q.    And how did you consider the commander's direction to keep  
14 him in POI until the completion of the 706 board when you were doing  
15 your C&A boards? How did that factor in?

16          A.    Honestly, sir, when he had me put that blurb -- that  
17 sentence inside the report, I thought about as much of it just to put  
18 into the sentence and then that was it. Put it in the report, didn't  
19 pay much attention to it after that, sir.

20          Q.    You didn't view that as an order or a directive?

21          A.    No, sir. I wrote it in there -- hey, he -- it was worded  
22 the way he wanted to word it. And once that was in there ----

23          Q.    And I'm looking at the words "approves" and "directs."

1 A. Yes, sir.

2 Q. I guess in my understanding of that that's kind of an  
3 order.

4 A. It is. I mean, approves -- he approved -- that C&A board  
5 that's the first time it happened. And, you know, I'm saying -- hey,  
6 I understood his intent on what his intent was, but ----

7 Q. Okay, and so ----

8 A. ---- that didn't drive what I thought.

9 Q. ---- but his intent was to keep him in there until his 706  
10 board was done, right?

11 A. Yes, sir. I mean, that was -- I mean, that's what he's  
12 thinking.

13 Q. So as you sit there now that didn't impact your C&A boards  
14 at all?

15 A. No, sir.

16 Q. Okay. Now on 2 March 2011, PFC Manning apparently makes a  
17 comment to Master Sergeant Papakie, is that correct?

18 A. Yes, sir, in -- back up to the last one. Did it factor  
19 into the C&A board? Honestly, sir, I don't even know if the other  
20 members on the board even knew that statement -- they didn't see this  
21 report. I don't even know if they ever knew that that sentence was  
22 in there. I didn't pay much attention to it. I didn't -- I never  
23 sat there and say, hey, the CO said he's going to stay until the 706

1 board, so that's what we're doing. Once I got it worded the way he  
2 wanted to word it because I think I worded it three different times  
3 and had to bring it up to him. Once it was the way he wanted it. I  
4 was done. Happy I got it worded the way it was. That way I could  
5 move onto whatever I had next and didn't pay much attention to it  
6 after that. I don't think I -- I'm sure I never told the board about  
7 it.

8 Q. I'm sure you didn't. All right, so then when you look at  
9 the 2d of March, on that date PFC Manning is having a conversation  
10 with Master Sergeant Papakie, correct?

11 A. [Looking through the document] What page am I on, sir?

12 Q. I'm just -- from your memory.

13 A. Oh. Yes, sir.

14 Q. So on the 2d of March PFC Manning spoke to Master Sergeant  
15 Papakie?

16 A. Yes, sir.

17 Q. What was your understanding of just -- not what was said,  
18 but how the conversation went about?

19 A. If I remember right, Master Sergeant Papakie was talking  
20 about something -- I don't know what -- they were already having a  
21 conversation about something. I think -- I think he got counseled  
22 the night before by the guard staff about something. I don't  
23 remember. I think they were talking about that. And at some point

1 during that conversation words to the effect of -- and I -- it's not  
2 a quote, but essentially said, if I wanted to hurt myself, I have the  
3 elastic in my underwear to do it with, or something like that, sir.

4 Q. Okay, was it ever reported to you that he was talking to  
5 Master Sergeant Papakie about why he was still on POI?

6 A. It might have been, sir. I don't -- I don't really  
7 remember why they were having the conversation prior to that status.  
8 That very well -- I don't doubt that that topic came up during that  
9 discussion.

10 Q. And was it ever reported to you that when PFC Manning was  
11 saying what he said of, hey, if I wanted to harm myself, I could use  
12 the elastic of my underwear, that he was saying to -- to point out  
13 the absurdity of the conditions he was in?

14 A. Yes, sir. I -- I -- I understand what you're saying he's  
15 just maybe possibly throwing out an example.

16 Q. Right.

17 A. And I got that. And is that a possibility? Sure. It's a  
18 very real possibility. Could he have been being sarcastic when he  
19 said it? He could have been. But, again, like I said earlier, sir,  
20 sarcasm -- when we're talking about suicide, I can't take it as  
21 sarcasm. I'm -- you know, no way can I do that. 'Cause there's no  
22 way I'd be able to justify -- let's just say we didn't take his  
23 underwear away. And then he did at least attempt, let alone, you

1 know, God forbid, commit suicide -- right, at least attempt, we'd be  
2 answering -- oh, if he said this, why didn't you take his underwear  
3 away? And we'd be standing there saying, oh, I thought he was  
4 sarcastic. I can't explain that at my court-martial, sir. You know,  
5 I thought he was being sarcastic. That's -- that can't be my  
6 defense. So ----

7 Q. What about the brig psychiatrist. Wouldn't that give you a  
8 good defense if they said to you, look, this wasn't a statement of  
9 intent to harm oneself, but him just intellectualizing what he  
10 believed to be the absurdity of his -- his condition?

11 A. Might -- might it help me at my court-martial, sir? I'm  
12 sure it would help. I don't know if it would be enough to get me  
13 off. But, you know -- you know, might it help? Sure it would help.  
14 But, again, we back up to January 18th incident, which I still  
15 believe is very similar to the one in Kuwait. You had the Kuwait  
16 incident, and then I'm not sure how long after he made the noose.  
17 And then we fast forward to January 18th incident. That happens -- I  
18 think it's very similar to the one in Kuwait. And now I've got the  
19 underwear comment, sir. I'm -- it's like déjà vu, sir.

20 Q. Okay. So in this instance, I guess, here it was a red flag  
21 for you then?

22 A. It had to be, sir.

23 Q. And -- and you thought just because he said it, he might be

1 thinking about harming himself?

2 A. Yes, sir. I mean, and there's -- there's -- by March 3rd  
3 now I've got a couple other things going that don't help either.

4 Q. Did you consider the elastic of his underwear being a  
5 possibility of harming himself, like he could use that actually to do  
6 that?

7 A. Sure he could, sir.

8 Q. So that -- that was -- was that a possibility that you had  
9 thought of before his comment or was that just a possibility that you  
10 thought of after his comment?

11 A. No, we've always thought that he could. You know, anybody  
12 could, not necessarily anything relative to Manning. But was it a  
13 possibility? Sure.

14 Q. So the elastic of an underwear was a known possibility to  
15 you guys of potential harm?

16 A. Absolutely, sir. I mean, anything is.

17 Q. And I -- I guess PFC Manning was given razor blades as  
18 well?

19 A. Yes, sir, he was supervised while he shaved.

20 Q. Oh, so there's always someone standing there?

21 A. There's supposed to be. I mean, I wasn't there when he  
22 shaved. So.

23 Q. So having a supervisor then I guess the -- were the razor

1 blades viewed as a possible harm?

2 A. Yes, sir. But -- I mean, again, you've got to let him  
3 shave. And -- I mean, until he does something with that item -- I  
4 mean, so could a phone cord. I'm not going to sit here -- he's  
5 talking to you on the phone. Hey, sir, he can't talk to you right  
6 now because there's a phone cord.

7 Q. Right.

8 A. I mean, eventually we did get a headset type phone. But I  
9 mean, until we got that phone we couldn't sit here and say, you know  
10 -- I talk to you -- hey, sir, you're going to have to drive down here  
11 from Rhode Island, I think it was -- you have to drive down from  
12 Rhode Island 'cause I can't put him on the phone 'cause it's got a  
13 cord. Yeah, the possibility is there. We can only minimize. We  
14 can't 100 percent eliminate, fool proof, like take away every  
15 possible opportunity.

16 Q. Was PFC Manning given socks while he was on POI?

17 A. I believe he was, sir. When he was -- there was a period -  
18 - when he first got -- go confined he -- I think he stayed in his  
19 sweats -- his sweat suit all day once -- he didn't have -- in fact,  
20 no, he didn't have them when he first got to confinement. I remember  
21 working with his command later on getting him sweats. Then he stayed  
22 in sweats at that point. And then there was a period -- and I don't  
23 know when relative to what we're talking about right now -- that he



1 switched over to his uniform. But I -- when he was in his sweats, I  
2 think he did have socks if I remember correctly.

3 Q. And did you guys view his socks as a potential harm to him?

4 A. Sure, sir. It could be.

5 Q. And why did you allow him to have -- have the socks then?

6 A. He had them during waking hours, sir. I mean, once -- once  
7 taps hit, you know, and now lights are shut down and less  
8 supervision, less people in and out or whatnot. I mean, again, sir,  
9 earlier we talked about the heat being out in the brig and it was  
10 cold. You know, we weren't going to say you can't have socks. I  
11 know it's cold in here, but you ain't having socks because we think  
12 they're a threat, you know. Again, sir, we can't eliminate every  
13 possible opportunity. Other than -- if that was the case we'd take  
14 absolutely everything out of his cell and -- I mean, we'd be making  
15 someone standing there and with nothing in there and give you  
16 anything -- never give him a phone. Never give him chow. I mean, he  
17 could choke on chow on purpose.

18 Q. Okay. Now in March PFC Manning, as you pointed out,  
19 removed visitors from his visitation list, right?

20 A. Yes, sir.

21 Q. And this -- you can also consider it to be a red flag?

22 A. Yes, sir.

23 MJ: What was the date?

1 CDC[MR. COOMBS]: 22 March, ma'am.

2 Q. And you asked him about this in a counseling session,  
3 correct?

4 A. I'm sure I did, sir. I don't remember the specific  
5 conversation, but I'm -- I'm sure I did.

6 Q. If you turn to Page 99 of 109 of Enclosure 22.  
7 [The witness did as directed.]

8 A. [Looking at the document] Yes, sir.

9 Q. You see down basically about half way through where you  
10 state during the interview I asked P -- SND if everything was going  
11 well with family -- with friends and family since he had several  
12 people removed from his mail and visitation list?

13 A. Yes, sir.

14 Q. And then you see where it says SND stated that majority of  
15 the individuals had not written letters or visited, so he removed  
16 them. See that?

17 A. [Looking at the document] Yes, sir.

18 Q. He also stated that things were not going well with a  
19 couple of individuals, so he had them removed.

20 A. Yes, sir.

21 Q. Why was that a red flag for you then?

22 A. Because -- all right, let's talk about the letters first,  
23 sir.

1 Q. Yeah.

2 MJ: What page you on?

3 CDC[MR. COOMBS]: I'm sorry, ma'am, Page 99 of 109. It is the  
4 top paragraph.

5 MJ: Okay.

6 CDC[MR. COOMBS]: And about half way through, ma'am.

7 WIT: Ready, sir.

8 Q. Yeah, so you said what you wanted to talk about was the  
9 letters first?

10 A. Yes, sir.

11 Q. Okay.

12 A. If I have a mail visitation list, this list says, hey,  
13 these are all the people that I'm willing to accept mail from. It's  
14 -- it's -- now it can't ever be changed as you know.

15 Q. And can I stop you there for a moment? If a person's name  
16 wasn't on that mail list then he couldn't get mail from them, is that  
17 right?

18 A. He could, sir.

19 Q. He could?

20 A. It just wasn't going to automatically come to him. So --  
21 example; if I'm confined and I -- Aunt Suzie, living on the other  
22 side of the country who I talked to -- the only relationship I have  
23 with her is a Christmas card every year, right?

1 Q. Right.

2 A. I get confined; I'm probably not going to put that person  
3 on my mail and visitation list because I don't really expect to  
4 receive a letter from them. Let's say one day I get a letter from  
5 Aunt Suzie. And, you know, they come in, it's not going to be  
6 rejected automatically. That -- you know, the mailroom clerk's going  
7 to come down -- hey, you received a letter from Aunt -- you know,  
8 from this lady, you know. You know who that is? Oh, yeah, that's  
9 Aunt Suzie. Okay, we'll they're not on the mail and visitation list.  
10 Do you want to add them? Yes I'd like to add 'em. Add 'em. He  
11 receives the mail.

12 Q. And then you would add 'em by, I guess, putting their name  
13 and information on a five -- DD510?

14 A. Yes, sir. They'd drop a 510 to the mailroom. In that case  
15 where -- you know, the mail clerk very well could say, here, let's  
16 modify it right now instead of going through the whole mailroom  
17 process because now -- when you get into postal regulations, it's got  
18 to be delivered the day that it's received by the facility or else  
19 it's got to be rejected or whatever. So in that case the mailroom  
20 clerks going to be like, okay, hey, we're going to modify it right  
21 now. To prevent him from having to go get the original and you fill  
22 it out. I'll just give you a blank one. You add that one person's  
23 name. I attach it to the one that you had in the first place, give

1 you your mail. Call it a day.

2 Q. Okay. Well -- so then just with the visitors then when he  
3 explained that he removed the people that didn't visit him or two  
4 people that he had problems with. Why -- why was that a red flag?

5 A. Well -- let me back up to the letters again, sir, because I  
6 never said why that was a concern. Just 'cause some -- once my mail  
7 and visitation list is done and complete, that thing's filed up in  
8 the mailroom and I don't have to do anything with it. It doesn't  
9 cause me any trouble. I've already filled it out. It requires zero  
10 effort on that thing to be maintained in the mailroom on my part as a  
11 confinee. So why would I go through the trouble of I don't want  
12 these -- now I've got to do work to have them taken off. I have zero  
13 work to leave them on. Just 'cause I haven't received a letter, why  
14 am I going to go through this work just 'cause I haven't received a  
15 letter from them?

16 Q. Are you aware of the fact that when PFC Manning wanted to  
17 remove two people from his visitation list they wanted him to renew a  
18 -- put in a new DD510 with all the other addresses to update them?

19 A. I'm not sure about that, sir. That doesn't -- I don't  
20 remember that specifically. I'm not sure about the 510.

21 Q. If -- if that were the case where the mailroom supervisor  
22 said, look, you know, some of these addresses and information are  
23 incomplete or outdated; you need to just update everything. I guess

1 then -- your reasons for the letters would no longer be true,  
2 correct, as far as work and not work?

3 A. You mean they got -- as he was updating the old one, while  
4 he was at it he just didn't add certain people? Is that -- is that  
5 your question?

6 Q. No. No. Meaning that if he wanted to remove two people  
7 from his list, and that's all he wanted to do, so he wants to do that  
8 work. And the mailroom clerk says, well, fine you can do that, but  
9 you need to put in a whole new 510 with all the addresses and update  
10 them because it's been a while.

11 A. Yes, sir.

12 Q. Could you see then why a detainee might only put those  
13 people on that he's received stuff from instead of the Aunt?

14 A. I -- I can see why it would, sir.

15 Q. Okay.

16 A. But, I mean, he cares enough to put them on in the first  
17 place. Why not again?

18 Q. All right. Well now let's turn to the question of the  
19 visitors; when he told you that he removed people who didn't visit  
20 him or two people that he particularly was just having problems with  
21 why did that cause a red flag for you?

22 A. Well, the interesting part about that, sir, is he wasn't  
23 making any phone calls. He wasn't sending any or receiving mail. He

1 was only communicating with you. I mean, how are you having problems  
2 with family members if you're not even talking to 'em or writing or  
3 receiving letters from 'em or -- it doesn't make much sense to me,  
4 sir.

5 Q. Well, I guess if he wrote a letter that would be inspected  
6 by the brig before it was sent out, right?

7 A. It would be scanned, not read verbatim, sir.

8 Q. Well someone would look at it?

9 A. Yes, sir.

10 Q. And if he talked to somebody on the phone he knew that his  
11 conversations would be recorded?

12 A. Yes, sir.

13 Q. And potentially, I don't know, maybe used in a trial at a  
14 later date?

15 A. Correct, sir.

16 Q. You see how that might explain why he might limit his --  
17 letters he sent or the calls he made?

18 A. Those same circumstances and possibilities you just  
19 mentioned, sir, apply to every prisoner. It's real simple; don't  
20 talk about anything illegal while you're writing letters or making  
21 phone calls.

22 Q. Okay.

23 A. I mean -- I mean -- I mean, if -- if at the court-martial

1 they're going to talk about, hey, why were you talking about your --  
2 how much you miss McDonalds? How much is that really going to be  
3 used against you in a court-martial, sir?

4 Q. Can you turn to Page 108 or 109 for Enclosure 22?  
5 [The witness did as directed.]

6 A. Yes, sir.

7 Q. You said he removed everybody. But do you see there where  
8 he's got a personal visit from Danny Clark, which is listed as a  
9 friend, and a personal visit from Debra Van Alstyne, which is listed  
10 as Aunt?

11 A. [Looking at the document] Yes, sir.

12 Q. So I guess he was still having family and friends visit him  
13 after all, right?

14 A. Yes, sir. Well, now -- when he removed the people, he  
15 didn't remove everybody. He left certain names on there. But, I  
16 mean, he removed quite a few people.

17 Q. [Responded in the affirmative.]

18 A. And some of them were people that had visited him.

19 Q. Okay. Now you said earlier that detainees rarely appear  
20 before boards?

21 A. Yes, sir.

22 Q. And PFC Manning did, as we know, appear before a board on  
23 21 January, correct?



1           A.    Yes, sir.

2           Q.    And he want -- he appeared before the board to explain why  
3 he thought he should be taken off of POI?

4           A.    Yes, sir.

5           Q.    He explained he wasn't suicidal?

6           A.    Yes, sir. I -- he appeared before two. I'm trying to  
7 remember which one was which. But I remember he did -- I asked him  
8 that. And he said he wasn't suicidal during one of them.

9           Q.    And he was asked by the C&A board why he wrote always  
10 planning, never acting?

11          A.    Yes, sir.

12          Q.    And when he was asked about that, he was also asked, well -  
13 - and PFC Manning responded that may have been false, right?

14          A.    Yes, sir.

15          Q.    And then another board member, I believe you said it was  
16 Gunny Sergeant Fuller?

17          A.    Yes, sir.

18          Q.    Asked him, well, if you're -- if you weren't telling the  
19 truth about it then, how can we trust what you're telling us right  
20 now is true?

21          A.    No, sir. Gunny Fuller didn't state that and that wasn't  
22 the question. That was me that asked the question.

23          Q.    So correct -- I'm sorry. I thought you said Fuller asked

1 the question.

2 A. No, sir.

3 Q. So tell me what was asked.

4 A. When he said -- when he looked at the piece of paper that  
5 Gunny Fuller showed him and he said that may have been false. I  
6 said, well, if that may have been false, the five minutes ago when I  
7 asked you if you were suicidal right now, you said, no. So I also  
8 assume that's false? And he said, yes. And then Gunny Fuller asked,  
9 do you understand what he just asked you? He said, yes.

10 Q. So what you're saying on the stand is that you asked  
11 Manning if -- if when he said that he wasn't suicidal previously that  
12 you -- whether or not you should assume that that was false, and he  
13 told you, yeah, you should assume that's false?

14 A. Yes, sir.

15 Q. That's your testimony?

16 A. Yes, sir.

17 Q. Do you recall PFC Manning ever saying I -- it's possible  
18 that what I'm saying now is false, but it's not?

19 A. No. He said that may have been false. And then when I  
20 said if that was -- if that may have been false, then five minutes  
21 ago when I asked you if you were suicidal right now, I said, I assume  
22 that also may have been false? Yes. Do you understand what you were  
23 just asked? Yes.

1 Q. Okay. During the board PFC Manning was visibly nervous,  
2 correct?

3 A. I seem to recall he was -- yeah, he was probably --  
4 probably nervous.

5 Q. His hands were shaking?

6 A. I think so, sir. I can't -- I can't remember now. I  
7 remember writing that during one of the boards. I don't know if that  
8 was the same board or -- I do remember writing those words.

9 Q. He was stuttering slightly as he was speaking to you?

10 A. Probably, sir.

11 Q. And that's because he was standing up in front of ----

12 A. No, he was sitting down, sir.

13 Q. ---- at that point three Marines -- oh, he's sitting down?

14 A. Yes, sir.

15 Q. So he was sitting in front of three Marines asking him  
16 questions?

17 A. Yes, sir.

18 Q. And could you see where there is another possible -- if in  
19 fact that exchange happened where you asked him, you know, are you  
20 telling us a falsehood when you say you're not suicidal and he says  
21 yes, like, yeah, I'm lying to you. I am suicidal apparently. Do you  
22 see how that might just be him being very nervous in the response?

23 A. I can see how that would make somebody -- but that's one of

1 the reasons why Gunnery Sergeant Fuller clarified do you understand  
2 what you were just asked? And he -- I mean -- definitely said, yes.  
3 And the other part is; you know, we went back -- you know, we talked  
4 about earlier that Manning's intelligent.

5 Q. [Responded in the affirmative.]

6 A. He -- he is. He's a smart guy.

7 Q. Right.

8 A. So do I really think that he just misunderstood the  
9 question, and then re-misunderstood it when he was asked if he  
10 understood it?

11 Q. Right.

12 A. I think that's a very low possibility, sir.

13 Q. All right. So you thought when he told you that he was  
14 telling you, yes, I'm suicidal?

15 A. No, I don't think he was saying, yes, I'm suicidal. I  
16 thinking he was saying, yeah, what I said might have been false.

17 Q. I thought you said he said what I told you it was false?

18 A. No, may have been false -- that may be false.

19 Q. Okay. What was your question?

20 A. If -- if you're saying that may have been false; talking  
21 about always planning, never acting, then five minutes ago when I  
22 asked if you are suicidal right now, should I also assume -- should I  
23 also assume that was also false? Yes -- or words to that effect.

1 It's written -- it's written down on one of things, sir.

2 Q. All right, I'm handing you Appellate Exhibit 435I or India  
3 [handing the document to the witness]. And you've given two  
4 different answers. And I just want to make sure that whichever one  
5 you want to go with.

6 A. I've given the same answer, sir.

7 Q. Well, I -- you said he said it might have been false --

8 A. May have been false.

9 Q. -- which I think -- or -- is it "may" now?

10 A. That may have been false.

11 Q. May have been false. So may have been false is equivocal  
12 meaning like, well, it may be false, but it's not.

13 A. But it might not be false either.

14 Q. Okay. And then the other one was that it was false, which  
15 I thought is what you were saying?

16 A. No, he never said that was false. It was always that may  
17 have been false.

18 Q. So the -- so he's basically giving you an honest answer  
19 that it may be false?

20 A. Yeah, he -- I don't know if it's honest anymore, sir. He's  
21 giving me an answer and saying his answer may be wrong.

22 Q. The appellate exhibit I showed you, is that the  
23 documentation of your exchange?

1       A.   [Looking at the document] Yes, sir, it looks -- it looks  
2 like a draft, but.

3       CDC[MR. COOMBS]:   I'm retrieving Appellate Exhibit 435 India  
4 [retrieving the document from the witness].

5       A.   I don't know if that's me typing right there. It's  
6 probably in CORMIS -- you know, what I actually put into CORMIS.

7       Q.   When -- now I want to go to -- if you look at the very last  
8 -- and we'll end off on this -- so you see the -- 107 -- Page 107 and  
9 109, Enclosure 22.

10      A.   [Looking through the document] I don't have a Page 109,  
11 sir.

12      Q.   Page -- no, 107.

13      A.   Yes, sir, page 107.

14      Q.   Do you see that -- that date 13 April 2011?

15      A.   [Looking at the document] Yes, sir.

16      Q.   And at least on that date who and for you were recommending  
17 that PFC Manning remain in MAX and POI, correct?

18      A.   Yes, sir.

19      Q.   In your mind was PFC Manning close to receiving a  
20 recommendation to go into MDI at that point?

21      A.   On 13 April, sir?

22      Q.   Yeah.

23      A.   I -- I -- I can't remember. Not as specifically as I was

1 back in January ready to recommend him because now he's back up to a  
2 month earlier, if that, or whatever -- when we go back to the may  
3 have been false comment, sir, that one -- that -- that one was heavy.  
4 That was -- that was probably, in my mind, the heaviest because I --  
5 now I don't know what to believe anymore.

6 Q. Okay. So at least at -- at this stage of 13 April you're  
7 nowhere near to being close to saying I can feel comfortable and  
8 confident ----

9 A. No, I wouldn't ----

10 Q. ---- about PFC Manning ----

11 A. ---- I wouldn't say nowhere near. I don't know -- I don't  
12 know where I was on that one on this date as far as comfort level of  
13 having him removed because I don't -- after the whole -- they may  
14 have been false thing -- up until this point, I don't remember any  
15 other specific incident or statement that he said or anything he did  
16 jumping out at me. I do remember that, you know, he -- he -- he --  
17 our conversations definitely went back to where we started from.  
18 Maybe not quite as bad, but, you know, they definitely regressed. So  
19 to tell you where I was on 13 April, how close I was, you know, 50/50  
20 or -- I can't remember, sir.

21 Q. Well, you didn't have anything that you can point to that  
22 would say -- and I think -- I want to get your words right. "I never  
23 got comfortable enough to justify to myself if I can't agree myself,

1 I can't sell it to the CO." So did you -- were you anywhere near  
2 close to being comfortable enough to sell it to the CO on maybe 14  
3 April -- 15 April?

4 A. Not -- not that I remember, sir. I mean, again, I don't --  
5 I don't -- I don't remember ho -- like I said, I don't know if I was  
6 50/50 on that. I don't know how close I was being able to sell it to  
7 the CO.

8 CDC[MR. COOMBS]: All right. I'm retrieving from the witness  
9 the copy of Enclosure 22 to Appellate Exhibit 259 and Appellate  
10 Exhibit 435 Hotel.

11 A. Sir, also, if I may ----

12 Q. Sure.

13 A. ---- to back up to the -- not to either one of those papers  
14 that you just gave me -- the one that was draft of the long C&A board  
15 that looks like just a word document printed, I didn't read that  
16 whole thing -- whether those are my words and my typing or not. I  
17 don't know if it was. I mean, that -- you -- you -- I'm not saying  
18 you did, but you could have typed that up five minutes ago and  
19 printed it out and say, hey, are these your words. So I don't if  
20 those are my words. That's why I say, what's in CORMIS or on the  
21 counseling notes or whatever, that's -- that's my words.

22 Q. Okay.

23 CDC[MR. COOMBS]: No further questions.



1 MJ: Redirect?

2 TC[MAJ FEIN]: Yes, Your Honor.

3 MJ: Go ahead.

4 **REDIRECT EXAMINATION**

5 **Questions by the trial counsel [MAJ Fein]:**

6 Q. Now, Master Sergeant Blenis, I just want to clarify one  
7 issue about your cross-examination. Can factors for maximum custody  
8 and POI overlap?

9 A. Can one factor be the same for both?

10 Q. Could it apply for both?

11 A. Yes, sir.

12 Q. So is disruptive behavior a factor for maximum custody?

13 A. Yes, sir.

14 Q. And that's something you would also consider for prevention  
15 of injury?

16 A. Yes, sir, depending on what the disruption was.

17 Q. What about poor home conditions?

18 A. Yes, sir.

19 Q. And what about -- would that apply -- poor home conditions  
20 apply to maximum custody?

21 A. Depending on how they're poor. I mean if I just don't  
22 speak to my family, I wouldn't put that as a custody, but if I have  
23 abuse issues going -- especially if I'm the abuser, like I say, I'm

1 locked up for spousal abuse, then, yes, sir.

2 Q. What about -- is low tolerance of frustration a factor you  
3 would consider for maximum custody?

4 A. It -- yes, sir.

5 Q. And would you also consider it for prevention of injury?

6 A. Yes, sir.

7 Q. And, finally, was potential length of sentence something  
8 you'd consider for maximum custody?

9 A. Yes, sir.

10 Q. And would you also consider that for prevention of injury?

11 A. Yes, sir.

12 TC[MAJ FEIN]: Thank you.

13 CDC[MR. COOMBS]: No recross, Your Honor.

14 MJ: I have a few questions. Let me just finish this. What was  
15 the -- what was -- what came after low level of frustration?

16 TC[MAJ FEIN]: Poor home co -- I'm sorry, it was potential  
17 length of sentence was the third and final factor.

18 **EXAMINATION BY THE COURT-MARTIAL**

19 **Questions by the military judge:**

20 Q. Assume PFC Manning -- well you testified earlier you've  
21 never seen a POI in any status less than MAX, is that right?

22 A. Yes, ma'am.

23 Q. Assume ----

1           A.    Up un -- not while PFC Manning was there.  Have I since  
2 then?  Yes, ma'am.

3           Q.    You have?

4           A.    Yes, ma'am.  Quantico changed it to here we did have a MDI  
5 -- not ER, MDI POI/MDI SR.  And that was pretty much a push down from  
6 Headquarters PSO, ma'am.

7           Q.    So Quantico changed their policy?

8           A.    Yes, sir -- yes, ma'am, it was pushed down from  
9 Headquarters Marine Corps Corrections.

10          Q.    The POI?

11          A.    Medium -- medium in custody, prevention of injury.

12          Q.    And for suicide risk as well?

13          A.    Yes, ma'am.

14          Q.    Okay.

15          A.    It was ----

16          Q.    When did -- when did that happen?

17          A.    It was after PFC Manning left, ma'am.  It was really  
18 unorthodox -- unheard of, ma'am.

19          Q.    The brig closed in September of 2011, is that right?

20          A.    No, ma'am.  December.

21          Q.    December?

22          A.    I left in September, ma'am.

23          Q.    Oh, December of 2011.  Was the new policy that came down

1 from Headquarters, Marine Corps, did that come before or after you  
2 left Quantico?

3 A. It was while I was at Quantico, ma'am.

4 Q. Okay, was it a long time before you left or was -- I'm  
5 looking at the trans -- Manning transferred in April.

6 A. Yes, ma'am.

7 Q. At the end of April. You left in September.

8 A. Yes, ma'am.

9 Q. So that leaves May, June, July and August.

10 A. Yes, ma'am.

11 Q. Any idea in there where that change came in?

12 A. Probably fairly early in that five month gap, ma'am.

13 Probably -- maybe a month or a month and a half later, I think. I  
14 can also add, ma'am, that that's not -- you know, that was directed  
15 to Quantico. When I got to Camp Pendleton and I was bringing lessons  
16 learned with me and my understanding of policies, Camp Pendleton  
17 didn't get that word, ma'am. In fact, Camp Pendleton when -- if I  
18 say MDI, POI, or MDI SR out there, they look at me like I'm crazy.

19 Q. You said it was directed from the Headquarters Marine Corps  
20 just to the Pendle -- just to the Quantico Brig and not to any other  
21 brig?

22 A. That's my assumption, ma'am, because at Camp Pendleton, it  
23 ain't happening. And I've brought it up. And they ----

1 Q. How did you find out about that?

2 A. That it was ----

3 Q. That the change came down?

4 A. I'm not sure who gave me the direction, ma'am. I mean,  
5 once it came -- like I said, ma'am, it was really unorthodox and  
6 unheard of. And it took me a mile to wrap -- wrap my head around it  
7 -- 'cause now I'm wrapping my head around a change in 10 plus years  
8 of something I've never seen before. And can I -- can I see the  
9 rationale behind it? I can. But when I say it though to somebody  
10 who's never heard it before they look at me like I'm crazy.

11 Q. Do both POI and suicide risk are considered administrative  
12 segregation, right?

13 A. Yes, ma'am.

14 Q. Now on your forms there you have -- let me find those.  
15 Hold on, I've got a lot of exhibits here, too. You're looking at  
16 work reports?

17 A. Work and training reports, ma'am.

18 Q. How do you get a work and training report if you don't  
19 work?

20 A. The -- it's not just your work, ma'am. This is what the  
21 form is called. It's not just your work, it's also your -- your  
22 conduct within the living quarters as well. If you -- if you were to  
23 look at the report, there's sections where it's to be filled out by

1 the -- I think it says housing supervisor or dorm supervisor -- I  
2 forget how it's worded -- but essentially the Brig areas supervisor.  
3 It says like sections like 1 through 5 are to be completed by just  
4 the housing, and sections 6 through 7 or whatever filled out by the  
5 work supervisor. Manning's -- where it says it was filled out by the  
6 work supervisor, Manning's weren't filled out. His is filled out  
7 only from the housing area.

8 Q. Okay. What can people in the general population do that a  
9 person on maximum custody -- what -- can't?

10 A. Go -- go to the mess deck for chow. Go to the general  
11 population rec' yard as a group. Move around the facility without  
12 restraints on. When they leave the facility, they don't have to wear  
13 leg restraints. They still have to wear hand restraints and a  
14 restraint belt, but just not leg restraints. They can go to church  
15 as a group. People in maximum custody, they can go to church but  
16 it's -- you know, it's individualized because, again, they -- we  
17 can't bring them out in the general population. That's about it,  
18 ma'am. The main -- the main things are; go to recreation call as a  
19 group, go to chow as a group in the mess deck, be assigned a job  
20 where they're working around.

21 Q. Can they -- can they also get work assignments?

22 A. Maximum custody, ma'am?

23 Q. No. The general population.

1       A.    Yes, ma'am, depending on their classification. There are  
2 some that are MDI custody that don't have a job assignment. Example;  
3 if I had somebody in protective custody.

4       Q.    That's -- if somebody is in protective custody would they  
5 go in the general population?

6       A.    No, ma'am, they'd be in special quarters. But they would -  
7 - they'd still be -- they could be -- not necessarily always, but  
8 they very well may be a MDI custody -- medium in custody prisoner.

9       Q.    Oh, so someone in -- someone in protective custody --

10      A.    They're not going anywhere with general population, ma'am.

11      Q.    -- would be in special housing?

12      A.    Yes, ma'am. This is assuming that there's an actual squad  
13 bay dorm open while -- while -- in this case -- during this period --  
14 talking about PFC Manning was confined, nobody lived inside the dorm.

15      Q.    So if someone was in protective custody would they be  
16 required to wear the leg restraints and wear restraints when walking  
17 around the facility?

18      A.    Not if they're medium in custody, ma'am, no.

19      Q.    Okay. And I guess I'm -- I'm curious as to -- if a med --  
20 if a spec -- if someone's in special housing they could be MDI  
21 custody, why couldn't someone in protective -- in POI be MDI custody?  
22 I guess they can now, but back then -- I mean what was the rationale  
23 about leaving in maximum custody?

1           A.    Ma'am, it was just where -- where -- where -- who  
2 originally ordered it and why it was that way? I don't know. That  
3 was long before I became corrections. That's just what was taught.  
4 If somebody is POI or SR, they are maximum custody. It was -- and it  
5 still is to this day with all potentially violent, dangerous or  
6 escape risks.

7           Q.    You testified earlier in response to defense counsel that  
8 by the 3d of March you had other things that were not helpful, I  
9 guess, since you were considering taking PFC Manning off of POI  
10 status back in January?

11          A.    Yes, ma'am.

12          Q.    What were those things?

13          A.    That -- that was -- when we started talking about the --  
14 that may have been false. At that point we haven't talked about that  
15 yet. And that's what I was referring to. So he did -- he did get to  
16 that part.

17          Q.    Okay, rec' call; what's your understanding for how much  
18 rec' call a prisoner should have by the regulation?

19          A.    Recreation call, ma'am?

20          Q.    Yeah.

21          A.    They go out for an hour. But ----

22          Q.    How come PFC Manning only got 20 minutes?

23          A.    Because when you look at the -- under the programs part of



1 the SECNAV recreation is not just recreation call. The library is  
2 considered a form of recreation. So when -- when we talk about one  
3 hour of recreation daily, that encompasses games -- if they're  
4 playing table games -- now I don't -- I know that didn't apply to PFC  
5 Manning because he wasn't part of the population so he couldn't play  
6 ping pong by himself. But the library usage; that's considered a  
7 form of recreation. Recreation call itself is a form of recreation.  
8 Recreation doesn't mean just recreation call.

9 Q. So it's not concerned with physical activity?

10 A. No, ma'am. Exercise period -- when you're reading the  
11 SECNAV there's a spot where it talks about there's a one hour  
12 exercise period that's referring to disciplinary segregation  
13 prisoners only. So if I'm in disciplinary segregation, I have to  
14 come out of my cell for a one hour exercise period a day. That  
15 doesn't mean recreation call. That means I can go outside, however,  
16 no recreation equipment is going to be afforded to me. So I can go  
17 out there -- I can, you know, run around the inside perimeter, or  
18 pushups, you know, calisthenics. But they're not -- but they're not  
19 going to be given a basketball or something like that, ma'am.

20 Q. I guess this is where I'm still confused because the  
21 disciplinary segregation requirement is for an hour of exercise, why  
22 is PFC Manning only getting 20 minutes?

23 A. Ma'am, that's -- that's the way it was written. That's one

1 of the reasons why I pushed for the one hour recreation call.

2 Q. Who made that decision on the 20 minutes?

3 A. That's long before even I was there. He did MAX Sunshine  
4 Call -- it's called MAX Sunshine Call. It's 20 minutes. If you go  
5 to Camp Pendleton ----

6 Q. Oh, that's for every MAX then, not just PFC Manning?

7 A. Oh, no, ma'am, it's MAX's. It's referred to as MAX  
8 Sunshine Call -- 20 minutes. And it's currently that way in Camp  
9 Pendleton right now. I'm still -- I'm still working on the one hour.  
10 But these -- these are all things that, like I said, lessons learned  
11 about the Camp Pendleton. Why not an hour? I'm still pitching.

12 Q. Okay. What kind of documentation is required for C&A  
13 boards by either the Quantico's regulation, the BUPERS, I guess the  
14 other part of the SECNAV Instruction ----

15 A. Yes, ma'am.

16 Q. ---- and the regular SECNAV Instruction that you all use.

17 A. For a reclassification form, ma'am. That's -- a 2711.2 I  
18 believe, ma'am. It's a reclassification form. Now there's a section  
19 in CORMIS that -- under the reclassification tabs on -- I really wish  
20 I could pull up on a computer to show you -- we no longer have to use  
21 a hard copy of the 2711.2 because inside CORMIS there's a  
22 reclassification tab that has four subtabs underneath it. And if I  
23 were to take all the information in these subtabs and put it on this

1 piece of paper, I would have the 2711.2. And so -- but that's  
2 required for reclassification only. As far as the actual ----

3 Q. Now when you're talking reclassification, what happens --  
4 what -- what is required for the boards that meet, I guess, and vote,  
5 in your case, to continue the classification?

6 A. If -- if somebody's being reviewed by a C&A board and  
7 there's no change to it, it just has to be put on the daily change  
8 roster where that's listed -- that's everybody -- that's everybody  
9 that's reviewed by a C&A board -- the results of the C&A board. And  
10 there's another spot in CORMIS where you see the board -- it's the  
11 board review and results area. You've probably seen those, ma'am.  
12 But the -- paragraph -- what I do now -- and this -- this isn't  
13 required, but this is what I started doing back in November in  
14 Quantico and I brought it with me to Camp Pendleton is everybody  
15 that's on the C&A board, even if their status didn't change, we do  
16 the 2711, the electronic version in the tab anyway just so there's no  
17 -- so I never have to answer this question again.

18 Q. But to your knowledge -- did I understand you to testify  
19 that's not required; you just do it as an addition?

20 A. Correct, ma'am.

21 Q. If someone doesn't like what the C&A board decision is can  
22 they appeal it?

23 A. Yes, ma'am. It would be processed -- 510 to the CO. And

1 they could submit the 510 to me, but -- you know, I would bring it to  
2 the CO because ultimately the CO is the appeal authority.

3 Q. When you tell -- after the C&A board meets and you  
4 recommend POI MAX and it goes to the CO and the CO approves it, what  
5 do you tell Manning -- what do you tell PFC Manning?

6 A. I never -- I'd never say never -- it wasn't standard that  
7 once I -- once the C&A sheet came back this is what the CO approved,  
8 I didn't go back and brief all the prisoners that were on the C&A  
9 board that day unless -- specifically the ones that had a change. It  
10 eventually came up though whenever he started -- whenever -- not he  
11 started the conversation -- whenever the conversation would come up  
12 about either C&A boards, custody, classification, those things --  
13 they all kind of go together. We would talk about those -- how the  
14 results come back and maintain the status -- current status. So if  
15 his C&A board went on Friday, I didn't get the -- we didn't get the  
16 results back from the CO because those went to the admin' section --  
17 but we didn't go get those and go brief everybody that remained in  
18 the present -- current status.

19 Q. Would you talk about it at the next weekly meeting because  
20 they're supposed to be notified that these boards are taking place,  
21 so they know it's happened?

22 A. Correct, ma'am. They're notified prior -- prior to the  
23 board actually happening -- asked if they want to appear or not. And

1 then if I talk to him next week during that weekly conversation, if  
2 we were speaking and, you know, we started talking about custody,  
3 classification, POI, those type things, ma'am, then yes, you know, if  
4 he -- you know, if he asked why am I in current status. Ultimately  
5 the C&A board went and the Commanding Officer has approved that  
6 you're going to stay in the current status. And that was always the  
7 answer because it was the commanding officer's answer.

8 Q. You testified earlier that you were concerned when PFC  
9 Manning appeared at the board that you had that dual role of his  
10 counselor as well as the board member. And if he knew that you were  
11 recommending continuation on POI status MAX that might chill your  
12 communication?

13 A. Yes, ma'am.

14 Q. When -- before that when you and PFC Manning talked about  
15 the results of the board, would you just tell -- would you tell him  
16 what the results of the boards were or what you recommended or both?  
17 I mean, did it ever come up with him on what you were recommending  
18 one way or the other?

19 A. It did, ma'am, a couple of different times throughout his  
20 confinement. I don't remember specifically when it did. But I -- I  
21 didn't keep it a secret what my recommendation was. In fact, that's  
22 why -- the first time he did appear before the board, I wanted to  
23 specifically talk to him about -- just so you understand this is --

1 this is my role. I don't want it in any way, shape or form to affect  
2 our relationship as -- me as your counselor. And this is my role.  
3 Understand that, you know, these are different. So he was well aware  
4 of my recommendation, ma'am.

5 Q. You testified earlier that you were not concerned about the  
6 impact on PFC Manning by keeping him on POI status for -- I guess at  
7 the time that he left was about nine months?

8 A. Yes, ma'am.

9 Q. You also testified that the longest you'd ever seen it  
10 before was a month, and that was not the norm either?

11 A. Correct, ma'am.

12 Q. Why were you not concerned that -- that set of restrictions  
13 could be detrimental for someone over a long period of time?

14 A. I -- I saw no -- any kind of mental or physical behavioral  
15 -- any kind -- any kind of significant change in it. If -- if --  
16 huge weight gain or loss was an issue. If -- you know, his conduct  
17 or mental state was definitely apparently eroding, then it would.  
18 That's why there was times during -- you know, I would ask, hey, how  
19 do you feel now? Like I remember one time -- break it down, like,  
20 Manning, for real, tell me. You know, compared to -- how do you feel  
21 right now? And then he would -- I remember him saying -- I don't  
22 know if this is a quote or not, but pretty close -- I feel as good as  
23 the day I got here or, you know, and I was like for reals, tell me.

1 You know, and he stressed that he felt as when he got here. So I --  
2 I mean I did -- so I guess I was concerned enough to ask that. But  
3 at no point did I see cause for concern coming from his appearance,  
4 his -- the way he -- you know, the way he behaved, the way he spoke,  
5 noth -- there's no significant change in anything.

6 Q. In your experience, I mean, how often do -- do brig  
7 personnel put people in POI? Is that something that's done  
8 frequently?

9 A. Yes, ma'am. It's done -- it's done pretty frequently. I  
10 tell you out at Camp Pendleton -- and I hate to mention Camp  
11 Pendleton when we're talking about Quantico, but it's just an example  
12 of a completely different facility. Out there my average count right  
13 now is maybe 30 - 35 depending. There's always at least one on POI.  
14 It's rare that we don't have at least one on POI. It's almost rare  
15 that we don't have one on almost on -- not quite as often for SR, but  
16 POI; there's almost always one on POI. There's plenty that are on  
17 MAX for a very long time.

18 Q. You also testified that PFC Manning's behaviors were not  
19 normal for a person in maximum custody. What does a normal person in  
20 maximum custody do in his cell from 0500 to 2200?

21 A. A lot of time they sit there -- reading and watching TV is  
22 a huge one, ma'am. Crossword puzzles, write letters, Sudoku --  
23 that's a big one. Crosswords and Sudoku are very popular.

1 Q. In a couple of the entries you said that PFC Manning would  
2 sit on his bed Indian style I guess staring straight ahead or staring  
3 at the floor --

4 A. Yes, ma'am.

5 Q. -- was that just for those two entries or was that  
6 consistent conduct along the way?

7 A. It was consistent along the way. I don't know why I put it  
8 in those two entries and no other ones. I mean it was consistent  
9 along the way. It wasn't -- I'm not going to say every time I walked  
10 down there he was sitting there like that. But it wasn't uncommon  
11 for me to walk down there and see him sitting like that. Sometimes I  
12 went down there and he's just -- sometimes he was reading. Sometimes  
13 he was standing up. So I don't know why specifically I put it in  
14 that note aside from maybe it just popped in my mind as I was typing.

15 Q. Okay. And the last question I had is were you aware of any  
16 other prisoners or detainees -- explain to me that again; what's the  
17 difference between -- a detainee is no longer a detainee, it's a  
18 prisoner -- it's a pretrial prisoner?

19 A. It's all about legal status, ma'am. A detainee or a  
20 pretrial prisoner now is somebody that's confined awaiting court-  
21 martial.

22 Q. Okay, I know that. But I guess detainee is no longer the  
23 used word. It's now pretrial prisoner?



1           A.    No, ma'am, if we're out talking, I very well may use the  
2 word "detainee." But as I write policy out at Camp Pendleton, the  
3 word detainee is not going to be in any policies. It's going to be  
4 post-trial or pretrial prisoner.

5           Q.    When did that start?

6           A.    Once the -- it -- it comes from the BUPERS instruction,  
7 ma'am. That became our -- I don't know when it became, hey, this is  
8 now an authority -- directive for us to follow. There was a long  
9 period before that was an official directive for us that we knew it  
10 was coming. So we started -- doing a preemptive strike to where we  
11 started looking at the BUPERS instruction as well even though stuff  
12 in there wasn't required. We knew it was coming. So I don't know  
13 when it actually came into effect as our -- as a governing directive  
14 for us. But the BUPERS instruction is what changes from pretrial to  
15 post-trial. And the SECNAV Instruction is actual senior to BUPERS  
16 instruction.

17          Q.    Were any pretrial -- other pretrial detainees housed  
18 anywhere near PFC Manning so he could talk to them?

19          A.    Yes, ma'am. There was -- there was times where somebody  
20 was, you know, right next to him. There was times where there was  
21 somebody -- leave one cell gap and somebody next to him -- or next to  
22 that cell, I mean.

23          Q.    Would PFC Manning be able to talk to somebody two cells

1 away in a low conversational tone?

2 A. Oh, yes, ma'am. I've done it with multiple prisoners. The  
3 way -- the way the rows are -- the long rows, there's 12 cells on the  
4 long row. I've stood in the middle of that row and I've had  
5 conversations with prisoners from both ends of the row as a group  
6 conversation, sitting there talking to them about -- either talking  
7 about football or something like that, ma'am. I mean, the way the  
8 echo and -- it's just designed, you can have a conversation with --  
9 from cell 1 to cell 12 without having to scream. Now if it's hot in  
10 there and we have the fans and the blowers on it's obviously harder.  
11 But, no, it doesn't -- you don't have to yell to talk to somebody two  
12 cells away.

13 Q. Was there any effort by brig personnel to keep people away  
14 from PFC Manning? Pretrial ----

15 A. I -- I never -- I was never told, hey, nobody lives here --  
16 nobody lives near Manning.

17 Q. Did you ever see him talk to any other pretrial prisoners?

18 A. Not specifically, ma'am. I know there was somebody that we  
19 had that did talk to him or as least attempt to talk to him. Now I  
20 don't know which way the communication went. I don't know if Manning  
21 tried to talk to this other prisoner or if the other prisoner tried  
22 to talk to Manning. But there was an attempt at some kind of dialog.  
23 And I don't -- and, again, I don't know remember which one, but one

1 of them didn't want to talk to the other one. I don't know if that  
2 was from Manning or the other detainee's side. But aside from that,  
3 I don't remember him ever actually conversating outside of maybe a  
4 quick, hey, how's the chow or something like that. Never actually  
5 engaging and developing any kind of relationship with anybody.

6 MJ: Any follow-up based on that?

7 TC[MAJ FEIN]: No, Your Honor.

8 CDC[MR. COOMBS]: Just one question, Your Honor.

9 **CROSS-EXAMINATION**

10 **Questions by the civilian defense counsel [Mr. Coombs]:**

11 Q. You were asked whether or not you ever expressed any  
12 concern of PFC Manning about being on POI for a great length of time.  
13 Do you recall that?

14 A. Yes, sir.

15 Q. And you -- you said that you asked PFC Manning a question  
16 because you were concerned?

17 A. Yes, sir. I mean, being that I asked that question I guess  
18 I did have some kind of concern enough to ask that question. But I  
19 was never seriously concerned like, wow, I think this is really  
20 messing Manning up.

21 Q. And if his response to you was "yes" when you asked that  
22 question, yes, this is really messing me up what would you have done?

23 A. At first I would have asked him -- I would have went off of

1 that comment, hey, like how? Tell me -- tell me what's -- you know,  
2 how's it messing you up? I'd tell him -- ask him -- look, I don't --  
3 you don't look any different. You're not talking any different.  
4 You're not behaving any different. So tell me how. I mean we can  
5 got a 100 different directions related to -- my -- my actions would  
6 be dependent on the total -- the totality of that conversation if it  
7 happened.

8 Q. Is causing him to be depressed and withdrawn?

9 A. I mean, at a bare minimum? I would definitely talk to  
10 Master Sergeant Papakie, the CO, and depending on which psych was  
11 there, I mean, I -- I always did try to talk to the psych. Colonel  
12 Russell I was able to speak to pretty well.

13 Q. And what would you try to do then?

14 A. I'd talk to the psych like, hey, where do we go from here?  
15 Like what'll -- how do we fix this? You know, as simple as that.  
16 How do we fix this and at the same time protect him from himself and  
17 maintain security? How do we accomplish all of our objectives? And  
18 I don't have that answer. And hopefully collectively, you know,  
19 between leadership at the brig and the psych', you know, we'd be able  
20 to come up with an answer.

21 CDC[MR. COOMBS]: Thank you.

22 WIT: Yes, sir.

23 MJ: Is there anything else that we need from this witness?

1 TC[MAJ FEIN]: No, Your Honor.

2 CDC[MR. COOMBS]: No, Your Honor.

3 **[The witness was permanently excused, duly warned, and withdrew from**  
4 **the courtroom.]**

5 MJ: All right, counsel, is there -- well, before I proceed,  
6 defense, 435I, what is this and where did it come from?

7 CDC[MR. COOMBS]: Your Honor, 435I was provided to the defense  
8 in discovery. I believe what it is is a documentation from the C&A  
9 board on that day. And it also covers the conversation by both Gunny  
10 Fuller and Gunny Sergeant Blenis with PFC Manning.

11 MJ: Okay, so you got this in discovery from the government?

12 CDC[MR. COOMBS]: Yes, Your Honor.

13 MJ: All right, in light of the time I'm thinking perhaps it's  
14 best to address the government's motion to reconsider perhaps at the  
15 next session?

16 TC[MAJ FEIN]: Yes, ma'am.

17 CDC[MR. COOMBS]: Yes, Your Honor.

18 MJ: Anything else we need to address before we recess the court  
19 today?

20 TC[MAJ FEIN]: Ma'am, there's only one other thing. It's an  
21 administrative issue. The government tonight is updating its witness  
22 list to delete witnesses from the government's witness list and is  
23 changing some of the descriptions. So we just need to get it marked

1 so we can put it on the record -- the marking of it the next session.

2 MJ: That's fine.

3 TC[MAJ FEIN]: Yes, ma'am.

4 MJ: Is there anything else that we need to address other than  
5 the start time for court at the next session, which I believe is the  
6 5th of December? The default had been before to begin at 10 o'clock.  
7 Looking at the witnesses we have to go through, perhaps 9:30 is a  
8 better start time again?

9 TC[MAJ FEIN]: Yes, ma'am.

10 CDC[MR. COOMBS]: Yes, ma'am.

11 MJ: Okay. Anything else we need to address?

12 CDC[MR. COOMBS]: No, ma'am.

13 TC[MAJ FEIN]: No, ma'am.

14 MJ: Court is in recess.

15 **[The Article 39(a) session recessed at 2014, 2 December 2012.]**

16 **[END OF PAGE]**

1 [The Article 39(a) session was called to order at 0932, 5 December  
2 2012]

3 MJ: This Article 39(a) session is called to order. Let the  
4 record reflect all parties present when the court last recessed are  
5 again present in court.

6 Do we have any housekeeping matters that we need to address  
7 before we proceed with the witnesses?

8 TC[MAJ FEIN]: Yes, Your Honor.

9 On--during the last session, after it recessed, the United  
10 States filed with the Court and the defense the updated prosecution  
11 witness list, dated 2 December of 2012. The original is classified  
12 and has been marked as Appellate Exhibit 437 and a redacted  
13 unclassified version has been filed as Appellate Exhibit 436.

14 MJ: All right, is there anything else we need to address before  
15 we call the witnesses?

16 CDC[MR. COOMBS]: No, Your Honor.

17 TC[MAJ FEIN]: No, Your Honor.

18 MJ: All right, please proceed.

19 ATC[CPT VON ELTEN]: Your Honor, the United States calls Master  
20 Sergeant Brian Papakie.

1 MASTER SERGEANT BRIAN PAPAKIE, U.S. Marine Corps, was called as a  
2 witness for the prosecution, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the assistant trial counsel [CPT VON Elten]:

5 Q. Just for the record, you're Master Sergeant Brian Papakie;  
6 Projects Manager; Plans, Policies & Operations, Marine Corps,  
7 Washington, D.C.?

8 A. Yes, sir.

9 Q. Thank you.

10 Good morning, Master Sergeant.

11 A. Good morning, sir.

12 Q. How long have you been in the Marine Corps?

13 A. Twenty-one years, sir, just over.

14 Q. And how many of those years have you been in corrections?

15 A. All 21.

16 Q. And what work have you done in corrections in the Marine  
17 Corps?

18 A. I've held every key position within the facility; all the  
19 junior positions, all the way up to all of the chief billets, each  
20 department, to include the administrative chief, programs chief,  
21 operations, and security.

22 Q. Would that include being--having been a duty brig  
23 supervisor?



1 A. Yes, sir.

2 Q. And would also that include having been a counselor?

3 A. Yes, sir.

4 Q. How long were you a counselor?

5 A. Approximately a year.

6 Q. And what did you do as a counselor?

7 A. At first, I started out in the brig. Basically, your

8 average counselor duties, as far as dealing with prisoners, their

9 commands; making sure that they were in touch with their lawyers; any

10 issues that they had with, like, the programs that they were

11 attending; and I also worked out of correctional custody unit.

12 Individuals that were NJP'd, we were restoring them back to duty and

13 I did counselor duties out there; did a lot of teaching classes in

14 conjunction with my counselor duties.

15 Q. How long were you at the brig at Quantico?

16 A. Four years.

17 Q. What positions did you hold there?

18 A. While I was there, I held the programs chief billet,

19 administrative chief, and brig supervisor.

20 Q. How long were you the brig supervisor?

21 A. [Pause] All of 2010 and 2011, almost 2 years.

22 Q. Thank you, Master Sergeant.

23 And what is your duty title today?

1 A. The special projects manager for Washington, D.C.

2 Q. And what do you do as a special projects manager?

3 A. I handle the Corrections Department, the individuals that  
4 the departments up there under the CORMIS--the CORMIS system, parole  
5 and clemency, victim-witness, the schools for the MOS, everything  
6 gets routed through me.

7 Q. And what does that entail?

8 A. Just making sure that the operations as far as, like, with  
9 schools, for example, making sure that all the individuals within our  
10 MOS are getting the proper school seats, whether they're in a Marine  
11 Corps facility or a Navy facility; dealing with victim-witness,  
12 making sure that all the brigs are reporting the victim-witness  
13 reports appropriately and then reporting that up the chain; parole  
14 and clemency, making sure that we're in the guide--within the  
15 guidelines of NAMALA.

16 Q. What is "NAMALA"?

17 A. That's the--I forget the acronym, sir; I apologize. That's  
18 the branch that fronts the parole and clemency. All of our paperwork  
19 has to be routed through them.

20 Q. So let's talk a little bit about your time in Quantico as  
21 the brig supervisor. What did you do as the brig supervisor?

1           A.    I basically ran the facility, sir.  I was basically in  
2 charge of making sure that that facility and every department ran  
3 smoothly on a daily basis.

4           Q.    And would that include being in charge of the Programs  
5 Group?

6           A.    Yes, sir.

7           Q.    And what does the Programs Group do?

8           A.    Programs in a Marine Corps facility, in Quantico, for  
9 example, basically we handle the counseling of the prisoners and  
10 detainees that are within the facility but also handling the  
11 Programs, and when I say "Programs" I mean interest groups that come  
12 into the facility to support the prisoner detainee activity, such as  
13 the chaplains, maybe substance abuse; anything that is in conjunction  
14 with their treatment, any type of treatment that a prisoner is  
15 receiving while they're there.

16          Q.    And how would a pretrial prisoner receive mental health  
17 treatment?

18          A.    We would have to arrange that, obviously through Pro--  
19 through the Programs Department, and that's basically done through  
20 one of their counselors and is usually routed through either, like,  
21 maybe the senior counselor or the Programs chief, depending on what  
22 that facility has, and we'll contact the Mental Health Department or  
23 medical first to make sure that that takes place.

1 Q. And who initiates making sure pretrial prisoners get mental  
2 health care?

3 A. We usually do that through the medical officer at OCS.

4 Q. And can a pretrial prisoner request mental health  
5 treatment?

6 A. They can.

7 Q. What if a pretrial prisoner requires mental health  
8 treatment but doesn't request it?

9 A. We would still make sure that they got that treatment.

10 MJ: What is "OCS"?

11 WIT: Officer Candidate School, ma'am.

12 Q. What other counseling is available to detainees?

13 A. When you say "other counseling," sir, you know, besides the  
14 things that I described, basically day-to-day interaction, making  
15 sure that they don't have any kind of problems within the facility;  
16 needs with their commands.

17 Q. What about something like PTSD?

18 A. We had an outside group come in. Ms. McClain used to come  
19 in and deal one-on-one with the PTSD prisoners and detainees that we  
20 had housed within the facility and that was actually her specialty.

21 Q. And what do you think the purpose of confinement is for  
22 pretrial prisoners?

1           A.    Pretrial prisoners are basically warehoused within the  
2 facility to ensure that they get to trial and because they're a  
3 flight risk.

4           Q.    Master Sergeant, let's talk a little bit about Captain  
5 Webb.

6           A.    Yes.

7           Q.    Were you working at the brig when Captain Webb committed  
8 suicide?

9           A.    I was, sir.

10          Q.    And how did he commit suicide?

11          A.    He had taken several pills the night before and put a  
12 plastic bag, plastic trash bag over his head.

13          Q.    What was the brig's response to the suicide?

14          A.    We had never experienced anything like that before, so  
15 everything tightened up quite a bit. We had a colonel that was in  
16 charge of the investigation that came over on a regular basis to  
17 conduct the investigation, but we basically from that standpoint just  
18 kind of reviewed our procedures to make sure that, you know, all the  
19 t's were crossed and all the i's were dotted.

20          Q.    And what did the investigation ultimately conclude?

21          A.    That we were not at fault.

1 Q. Let's talk a little bit about PFC Manning's confinement at  
2 Quantico. When did you first learn that PFC Manning was coming to  
3 the brig?

4 A. I'm going to say maybe 2 weeks before he got there, sir.

5 Q. And how did you learn?

6 A. I think it was through an e-mail. It was a mass e-mail  
7 that was sent out.

8 Q. What was your typical response when learning about any  
9 detainee coming to the brig?

10 A. Just your average detainee coming to the facility. The  
11 only thing that was different about this one was he was coming from  
12 Iraq.

13 Q. So what steps did you take?

14 A. The only thing that we did really different was we made  
15 sure some of the senior staff was on hand the night that he came in.

16 Q. What interaction did you have with the duty brig  
17 supervisor?

18 A. I stayed there throughout the night until PFC Manning was  
19 actually housed in his cell; went through the paperwork after it was  
20 complete. I let the duty brig supervisor basically conduct his  
21 confinement process and stayed out of the way; that's his  
22 responsibility, that's his job, and he's perfectly capable of it.

23

1 Q. Is this part of the in-processing process?

2 A. Yes.

3 Q. And how often does a DBS, a duty brig supervisor, override  
4 a decision based on the initial classification sheet?

5 A. I'd say maybe 30 to 40 percent of the time.

6 Q. And what happens if a DBS overrides that decision?

7 A. Headquarters, Marine Corps gets--it's kind of like they get  
8 a ping that the system was overridden, because everything that we do  
9 on paperwork gets entered into an electronic system and they get kind  
10 of like a notice, so to speak, through the system that says, hey,  
11 this--the status of this custody has been overridden and they usually  
12 ask for justification.

13 Q. What kind of paperwork did PFC Manning or came for PFC  
14 Manning prior to or with him during in-processing?

15 A. There really wasn't much at first. We had to go back to  
16 the command and ask for--ask for more. It was a--it was a very basic  
17 charge sheet. I don't remember the specifics as far as what it  
18 entailed, and then there were--there was some basic things about what  
19 had taken place during his confinement while he was in Kuwait.

20 Q. When during in-processing does the brig explain to a new  
21 detainee how to address the guards?

22 A. It starts from the moment they walk in the door.  
23 Basically, when they walk in for the most part the staff that's there

1 during the confinement process addresses the guards that bring the  
2 individual first, explain what's going to take place, and then from  
3 the moment that the individual's addressed, the detainee or prisoner  
4 rank structure is immediately started off with.

5 Q. And why is it started immediately?

6 A. So that they understand, basically, how everything is  
7 structured within the facility as far as the ranks, the positions;  
8 how to address the staff so that there's no confusion about how to  
9 address the staff; how to follow orders; how to respond to the  
10 orders.

11 Q. And when does the staff explain the grievance process to a  
12 new detainee?

13 A. Some of it is explained there in Receiving and Release upon  
14 the confinement, but then it's further explained once they get to  
15 their cell because that's where the--they receive--the grievance  
16 process is basically a DD Form 510; it's a chit that basically  
17 requests for the inmate to speak to anybody that they wish to within  
18 the facility, and it's further explained once they get to their cell.

19 Q. And when does the brig staff explain the other rules and  
20 regulations of the brig?

21 A. During indoc; there's an indoc class that takes place, and  
22 they go through the ins and outs of the facility; what to do; what  
23 not to do; what programs are available.



1 Q. And how does the brig staff know a detainee understands the  
2 rules and regulations?

3 A. They take a test, and if they don't pass that test, we go--  
4 we go over it again with them, remediate them, and then have them  
5 take the test again and we'll continue the process until they  
6 understand.

7 Q. What did PFC Manning say during his in-processing about his  
8 background summary that you remember?

9 A. I remember he had a writing, something about he had  
10 actually had a form of assault that--you know, the one thing that  
11 does stand out is that when asked about suicide, if he had thoughts  
12 about it, he had checked the box but didn't stop there. He went on  
13 and made a comment in the lines below it that said that he was  
14 "always planning, never acting."

15 Q. After in-processing, how often did you interact with PFC  
16 Manning?

17 A. Every day, although the interactions were fairly short. I  
18 made rounds through Special Quarters every day.

19 Q. How would you interact with him?

20 A. When I go down there, I talk to each individual prisoner or  
21 detainee that's down there; just basically go down there and check on  
22 their status; make sure that they don't have any problems with chow;  
23 no problems, of course, with the guards; make sure that their well-

1 being is okay. For the most part, sometimes I'll spend, you know, 5  
2 or 10 minutes talking to any one individual, because they usually  
3 enjoy the company.

4 Q. Did PFC Manning ever raise concerns to you in person?

5 A. No; no, sir.

6 Q. What would the staff report to you about PFC Manning?

7 A. It was for the most part kind of erratic behavior; just  
8 peculiar actions within his cell as far as him making faces or  
9 they'll say he played peek-a-boo in the mirror; one time tried to  
10 pluck his unibrow with his glasses; lifting fake weights. I was told  
11 one time that he was licking the bars of the cell. And then other  
12 than that, when he wasn't doing anything, he would just kind of sit  
13 Indian style on his rack.

14 Q. And what would the brig staff say about the level of  
15 communication with PFC Manning?

16 A. There really wasn't much. You know, he didn't really talk  
17 to the guards that much at all, but even more so when I pinged some  
18 of the senior staff to find out what their interactions were, it was  
19 basically the same as mine: quick, short, to the point; I'm fine. I  
20 think if he could have shooed me along, he would have told me to  
21 please move on.

22 Q. And how did these reports affect your assessments of PFC  
23 Manning?

1           A.    I had a lot of concerns.  You know, during my time as a  
2 counselor, even as a junior corporal, all the way up to where I'm at  
3 now, never had a prisoner or detainee not want to talk to me.  I've  
4 had several interactions with all sorts of individuals in there for  
5 committing crimes or in there for alleged, you know, awaiting trial,  
6 and either case I haven't had an issue.  He was kind of the first.

7           Q.    But what if a detainee is just shy and not very talkative?

8           A.    I've had that before; kind of talked to the--talked to the  
9 other guards or whatever and make sure that there's not a problem;  
10 talk to the counselor.  If that's the case, try and spend maybe a  
11 little bit more time with them, but you usually can get a vibe with  
12 open-ended questions of whether or not they really want to talk to  
13 you or not.

14          Q.    Did you report your concerns to the Brig OICs?

15          A.    I did, sir.

16          Q.    Why?

17          A.    It's my responsibility as the brig supervisor to report  
18 everything that happens within that facility.  My role as the brig  
19 supervisor was to, basically, know the ins and outs of the facility,  
20 everything from the structure to the prisoners and detainees that are  
21 confined in it and report everything that I saw that was going on.

22          Q.    So what recommendations did you ultimately make to the Brig  
23 OICs?

1           A.    I can't think of one instance where I didn't go in there  
2 and express my concerns with--I thought basically that he was going  
3 to hurt himself.

4           Q.    How did your recommendations change as PFC Manning's  
5 confinement continued?

6           A.    There was, I want to say it was around the December time  
7 frame, a few of us staff members had considered recommending taking  
8 him off of POI. We had talked about it, I'd say, maybe for a week or  
9 two and then January 18th took place so that kind of--it changed our  
10 mindset.

11          Q.    How often did you talk to then Gunnery Sergeant Blenis?

12          A.    Every day.

13          Q.    And what would Gunnery Sergeant Blenis tell you?

14          A.    He basically explained in full lengths and detail almost  
15 every counseling session between PFC Manning and himself.

16          Q.    And how often would you talk to members of the  
17 classification and assignment boards?

18          A.    I'd say, on average, maybe 50 percent of the time after the  
19 board.

20          Q.    And what effect did those conversations have on your  
21 recommendations?

22          A.    It raised more concerns.

1 Q. Did you talk to the classification and assignment--what did  
2 the classification and assignment board members tell you after PFC  
3 Manning appeared in January before the board?

4 A. He appeared before the board I believe twice, and the one  
5 time I don't really recall what took place, but the other time, the  
6 instance that kind of stood out was that he was asked a question  
7 regarding his confinement paperwork: "always planning, never  
8 acting." The senior member of the board asked him kind of what that  
9 meant and he--his statement was that that could have been false; and  
10 then I don't really recall what was asked after that, but it kind of  
11 was an opportunity to put PFC Manning--kind of answer it differently,  
12 to give him an opportunity to answer it differently, and he answered  
13 it the exact same way and it just--it really gave cause for concern  
14 because the senior member of the board asked him again. He said, "Do  
15 you understand what I just asked you?" and I--like I said, I don't  
16 remember exactly what was said, but I know he was given an  
17 opportunity to check himself, make sure he understood what he was  
18 asked, and he answered the exact same way.

19 Q. And how often do classification assignment boards document  
20 their findings on a form?

21 A. We didn't at first. Just kind of to better our practices,  
22 I would say, December, January time frame, I don't remember when it  
23 was, we started documenting everything.

1 Q. What is typical in Marine Corps practice for documentation  
2 of classification and assignment boards?

3 A. It's not done. That's a brig Form; that's an in-house form  
4 that we generated ourselves. There's not a requirement for written.

5 Q. Master Sergeant, you just mentioned--we just talked a  
6 little bit about Gunnery Sergeant Blenis. How much confidence did  
7 you have in him?

8 A. A hundred percent.

9 Q. Why?

10 A. I've known him through the career, drill field, working  
11 over at the battalion, company gunny, the different duties that he's  
12 been assigned; his background, where he came from. He was originally  
13 motor transport; came over from motor transport with a real good  
14 background and I hadn't heard not one negative thing about him. I  
15 knew what his tempo was as far as his work performance, his  
16 interactions with people; a hundred percent confidence.

17 Q. Let's change topics for a second and talk a little bit  
18 about PFC Manning, the conditions of his confinement. Where did PFC  
19 Manning's cell get natural light?

20 A. There's actually three areas. There was a skylight kind  
21 of--kind of offset but almost over top of his cell; at the end of the  
22 row that he was on, the very far end, there was windows down that  
23 side; and then right by his cell, the hatch that was there had a

1 porthole, like a 12 by 12, right outside that were windows in the  
2 main hallway that let in natural light.

3 Q. And where was PFC Manning's cell located?

4 A. He was the very first cell on Alpha row. Basically as soon  
5 as you walk in Special Quarters, he was right there on the right-hand  
6 side.

7 Q. And how many others prisoners were housed in Special  
8 Quarters?

9 A. On average, I'd say between 7 and 13.

10 Q. How many prisoners were not housed on Special Quarters?

11 A. There were none.

12 Q. Why was that?

13 A. That was designated as our place of confinement. All of  
14 our prisoners and detainees were housed in Special Quarters.

15 Q. And what about a light outside of PFC Manning's cell?

16 A. We had the row lights, Alpha, Bravo, Charlie, and Delta row  
17 all had lights on in the hallways that remained lit throughout the  
18 night.

19 Q. And why did those lights remain lit?

20 A. It's for the guard staff so they could see what they're  
21 doing.

22 Q. Would a detainee be able to talk to an inmate who was in a  
23 cell two cells down?

1           A.    Yes.

2           Q.    How often did PFC Manning have a detainee in an adjacent  
3 cell?

4           A.    One time.

5           Q.    And how often did PFC Manning talk to other detainees that  
6 you know of?

7           A.    I only recall two individuals being anywhere near him.  
8 One--the one that was right next to him, I know they had a few  
9 conversations, because I actually spoke to the individual that was  
10 housed next to him; and then not long after we ended up moving him  
11 for whatever reason.

12          Q.    In your experience, how are recreation call and status  
13 related?

14          A.    I'm sorry. Can you ask the question again? I was a little  
15 distracted.

16          Q.    That's all right.

17          A.    Thank you, sir.

18          Q.    In your experience, how is the amount of recreation call  
19 related to a detainee's status?

20          A.    Recreation call is pretty much a standard. You know, each  
21 prisoner or detainee is supposed to get an hour of recreation call a  
22 day.



1 Q. Why would a detainee, then, get 20 minutes of sunshine  
2 call?

3 A. In SECNAV, the brig CO basically states in there that they  
4 have the restriction due to suicidal reasons or other hazardous or  
5 security concerns to restrict some of their activities.

6 Q. Let's talk a little bit about PFC Manning's--the  
7 restrictions placed on his confinement.

8 A. Yes, sir.

9 Q. By the end of 2010, how often had PFC Manning complained  
10 about his custody and status?

11 A. When in 2010?

12 Q. By the end of 2010.

13 A. I don't really recall any instance where he had complained.

14 Q. And how many other prisoners use the chit system?

15 A. All of them.

16 Q. How frequently?

17 A. I'd say on a regular basis. You know, they used it for  
18 anything that you could think of, maybe a--couldn't--had trouble  
19 calling home; hadn't heard from their command; had concerns about,  
20 you know, maybe their wife or their spouse or something that was  
21 going on at home; a book that wasn't on the book card; you name it,  
22 they used the request system for that.

1 Q. Let's talk a little bit about the morning of 18 January

2 2011. Do you remember what happened on that day?

3 A. Yes, sir. He had had--PFC Manning had had an incident  
4 while he was at recreation call where he had kind of fell back on his  
5 butt and then had kind of ran away from the guards and started  
6 crying.

7 Q. What do you remember about protests around that time?

8 A. Honestly, until last week I didn't know the protest--I know  
9 now--I didn't know that the protest was that weekend prior to that  
10 date.

11 Q. And when did you first learn that PFC Manning had fallen to  
12 the ground on that day?

13 A. I was at chow when it happened, so I was out. As soon as I  
14 came back in the facility, the guard--the guard staff, I believe it  
15 was the DBS had come to tell me about it and then Gunnery Sergeant  
16 Fuller shortly after.

17 Q. And how did you respond?

18 A. They were writing the incident reports. I wanted the  
19 incident reports right away, so I made sure that the guard staff that  
20 was on hand down there that saw it was relieved and that they were  
21 writing their incident reports; wanted the paperwork right away. It  
22 seemed like the situation was handled, so I didn't really think

1 anything of it. I went down later on just to make sure that PFC  
2 Manning was okay.

3 Q. How much later on did you go down?

4 A. I'd probably say an hour after I was back in the facility.

5 Q. And what did you find when you went to go investigate?

6 A. I went down to his cell, kind of stood there and just asked  
7 him about what took place down at recreation call, and, you know, it  
8 was his typical demeanor, kind of calm at first. Then when I had  
9 asked him about the incident, he got kind of worked up, almost to the  
10 level of hyperventilating, breathing heavy, like he was going to have  
11 a panic attack. I kind of leaned back against the glass window in  
12 Special Quarters, told him--I was calm in my demeanor--"Calm down;  
13 there's nothing to get excited about," and we just kind of started  
14 through the situation; and then shortly after that, Chief Warrant  
15 Officer Averhart walked in because he had heard about it when he came  
16 back to the facility.

17 Q. And what happened next?

18 A. When Chief Warrant Officer Averhart came in, I went to go--  
19 I had stepped--I had stayed in there for a little while during the  
20 conversation. I had stepped out for a little bit, and then when I  
21 had come back in, PFC Manning had--he kind of raised his voice a  
22 little bit to Chief Warrant Officer Averhart and said, "Why are you  
23 yelling at me?" Chief Warrant Officer Averhart just calmly said,

1 "That's my voice. I have a deep voice," and then PFC Manning had  
2 gotten really upset at that point, you know, breathing heavy. I  
3 think Chief Warrant Officer Averhart actually had him sit down on his  
4 rack at that point just to calm down, and they talked for a little  
5 while longer. It seemed like everything was calm. He didn't--PFC  
6 Manning didn't seem like he--it seemed like he was questioning more  
7 why he was on POI status, and Chief Warrant Officer Averhart was  
8 going through the explanation of why, the precautions that were being  
9 taken, security measures, so on and so forth.

10 PFC Manning had gotten upset, said that he was being  
11 analyzed all the time, kind of pointed to the glass, you know,  
12 "They're all--everybody's always watching me." He got real sporadic  
13 at that point and started hitting himself in the head, and then he  
14 had kind of lunged out of his rack like he was going to punch and  
15 then kind of head-butt the bulkhead but then stopped probably an inch  
16 before his head hit the bulkhead.

17 Q. And how did he hit himself in the head?

18 A. If I recall correctly, it was closed fist on the  
19 forehead, just kind of with his fists up.

20 ATC[CPT VON ELTEN]: The witness put his fist to his forehead.

21 Q. How much force did he use?

1           A.    It was pretty hard. You know, I don't remember at the  
2 time, but I'm sure as hard as he hit himself, there was probably some  
3 red marks.

4           Q.    And how did that event affect your recommendations going  
5 forward?

6           A.    It was a major cause of concern. Neither one of us were  
7 down there to make him stressed out. We were down there to  
8 de-escalate the situation, both of us were, and he didn't look at it  
9 like that. He thought he was being analyzed. Like I said, almost  
10 like he was having a panic attack.

11          Q.    Let's move a little bit forward in time. When was PFC  
12 Manning counseled about returning his clothing at night?

13          A.    I want to say the date was somewhere around the beginning  
14 of March. I don't remember exactly what day it was. I had come in  
15 the next day, and I had received an observation report from one of  
16 the corporals down in Special Quarters that he was basically--that  
17 PFC Manning was questioning the orders. The guard went to take his  
18 uniform away, his clothing away, and he didn't want to do it and just  
19 basically kept saying that he didn't understand why he had to do it,  
20 so I went down there to address the issue with him; kind of talked at  
21 length about how he's supposed to follow orders; why his clothes were  
22 being taken away. I had asked him if he understood. He repeatedly  
23 had told me that, no, he didn't understand. He didn't understand why

1 he was on the POI status. I probably went through it with him three  
2 or four times while I was standing in front of the cell, starting at  
3 "A" and finishing at "Z" as to the how's and why's he was on POI  
4 status, but even more so that I was down there to address the issue  
5 that he is to follow the orders of the guard staff no questions  
6 asked.

7 Q. Let's talk a little bit about his morning routine at this  
8 point. What time would his morning begin?

9 A. Forgive me it's been a year since I worked in the facility,  
10 so reveille was either at 0-5 or 0530. I think it was 5:30.

11 Q. And how would he get his clothing back?

12 A. The guard staff would put the clothing out prior to  
13 reveille, and then once count was secured they'd go through handing  
14 out toothbrush, toothpaste, razors, the items to prepare for the day.

15 Q. And what was the expectation regarding getting his clothing  
16 and putting it on?

17 A. Clothing was supposed to be handed out prior to reveille so  
18 the prisoners that have their attire taken away, whether they were  
19 Suicide Risk or POI, have their attire to put on prior to count.

20 Q. Is that the practice in the Marine Corps?

21 A. Yes, sir.

22 Q. Have you--what if a prisoner is on Suicide Risk and has no  
23 clothing?

1           A.    They're still going to get some sort of attire after  
2 reveille, but I know that during my--during the times where I've  
3 done--I've been a DBS and have conducted count, they wrap themselves  
4 in a blanket or whatever they have and they maintain that blanket on  
5 their person. It's just kind of a modified--we have them stand at  
6 attention during the count process. The individuals that are on  
7 Suicide Risk with the blanket, we really don't care; we just want  
8 them covered.

9           Q.    And is that typical practice in Marine Corps corrections?

10          A.    Yes, sir.

11          Q.    What did PFC Manning tell you about his underwear on       2  
12 March 2011?

13          A.    That was when I had went down there to address the issue  
14 about him not following orders from the guard staff and giving up his  
15 attire. He had talked about how absurd it was, and he said that if  
16 he really wanted to hurt himself that he could do it with his flip-  
17 flops or the elastic band in his underwear. I was concerned at that  
18 point. I didn't want to show him that I was concerned for fear that  
19 he might do something drastic, so addressed it quickly with the guard  
20 staff and then quickly went to Gunnery Sergeant Blenis and Chief  
21 Warrant Officer Barnes to address the issue.

22          Q.    Why were you concerned?

1           A.    I'm the brig supervisor, making my rounds. To make a  
2 comment like that to me, you've put some serious thought into whether  
3 or not you're actually going to say that to that individual. You  
4 know, I hold a lot of weight in that facility, and for someone to say  
5 something--that to me I can't--I can't just brush that off. There  
6 was certainly some raise for alarm there. I needed to address that  
7 right away with Chief Warrant Officer Barnes because I thought that  
8 certain measures needed to be taken.

9           Q.    What if it's just a sarcastic quip?

10          A.    It may--could have been, but in a confinement facility, in  
11 a jail, whatever you want to call it, you don't use words like  
12 "escape" or "suicide" and that was along the line--that was along the  
13 lines of suicide. You just simply--you just simply just can't say  
14 those words without repercussions.

15          Q.    And how did--and what was the response by the brig staff?

16          A.    We had obviously, like I said, some concerns. I had told  
17 the guard staff before I left to keep a close eye on him. There will  
18 probably be some changes coming down later on that afternoon into the  
19 evening; and after talking with Chief Warrant Officer Barnes, I mean,  
20 the decision was--it was no questions asked that we--that we needed  
21 to make sure that he wasn't going to hurt himself; and if he made a  
22 point to point out his underwear, then we had to take his underwear.

23          Q.    What happened the next morning?



1           A.    The next morning, he didn't have his clothing, of course.  
2   He had the blankets that he slept with, and when he had stood up for  
3   count, for whatever reason he stood naked during count.  When Staff  
4   Sergeant Terry came through and conducted count, he stopped real  
5   quick when he noticed that he was uncovered, told him to cover up,  
6   and then simply moved on with count.  By the time I had gotten there  
7   in the morning, Staff Sergeant Terry addressed it with me, and we  
8   made sure that PFC Manning was aware that he was supposed to cover  
9   up.

10          Q.    How did you make sure he was aware he was supposed to cover  
11   up?

12          A.    I believe it was Ms. Barnes that actually went--Chief  
13   Warrant Officer Barnes that actually went and addressed it with him  
14   herself; that was something that she wanted to take care of.  We had  
15   the--we had the conversation--I usually get there before her--had the  
16   conversation and she wanted to go down there and talk to him herself  
17   about it.

18          Q.    What complaints did PFC Manning file in response?

19          A.    I don't remember any complaints.

20          ATC[CPT VON ELTEN]:  Thank you, Master Sergeant.

21          WIT: Yes, sir.

22          **[Pause]**

23          MJ:  Go ahead, Mr. Coombs.

**CROSS-EXAMINATION**

**Questions by the civilian defense counsel [MR. COOMBS]:**

Q. Master Sergeant Papakie, PFC Manning was assigned to Special Quarters, correct?

A. Yes, sir.

Q. And Special Quarters, in your words, was kind of separate from everything else?

A. No, sir.

Q. You don't recall telling that to the defense?

A. No, sir.

Q. So you wouldn't consider Special Quarters being separate from everything else?

A. In a normal confinement facility, yes, but Quantico, it changed; that was their regular housing unit.

Q. And you were required to go through that twice a day.

A. Yes, sir.

Q. And generally you'd go through and check on PFC Manning real quick.

A. No, not real quick. I would go through and make my regular rounds.

Q. All right, well I don't want to put words in your mouth, so would you spend a lot of time with PFC Manning?

A. I would try to.

1 Q. And how so?

2 A. Talk to him, trying to get--trying to get him to talk.

3 Q. So would you say that you spent a lot of time with him or

4 you went through and didn't spend a lot of time with him?

5 A. If I didn't spend any time with him, it wasn't by my own

6 part; it was by his.

7 Q. All right, so you occasionally would have a conversation

8 with him.

9 A. Yes.

10 Q. And you said, at least to the defense, that that

11 conversation would never take place for very long.

12 A. Correct.

13 Q. You told the defense that you didn't notice a change in his

14 behavior over time; is that correct?

15 A. No, that's not correct.

16 Q. So today, on the stand, you noticed a behavior his--in his--

17 -or change in his behavior?

18 A. I stated earlier that after January 18th he had a--he had a

19 drastic change.

20 Q. All right, so on the stand today, you're saying now after

21 January 18th he had a drastic change.

22 A. Yes, sir.

1 Q. So how about we back up then. Between 29 July and January  
2 18th, you didn't notice a change in his behavior.

3 A. Not really, sir.

4 Q. In other words, it wasn't one way at the very beginning  
5 when he got there and something different, apparently, prior to  
6 January 18th, correct?

7 A. Correct, sir.

8 Q. You did say that sometimes it was sporadic, though.

9 A. Yes.

10 Q. You told the defense that sometimes he would talk more and  
11 sometimes he would talk less.

12 A. No; I don't recall saying that.

13 Q. You don't recall ever saying that to the defense.

14 A. No, sir.

15 Q. So is your testimony now as you sit there, under oath, that  
16 he never talked more sometimes and other times talked less?

17 A. No, sir. It was dependent on who he talked to.

18 Q. Well, let's just do it with you, because that's what you  
19 would know, correct?

20 A. Yes, sir.

21 Q. All right. So is your testimony that he would never  
22 sometimes talk to you more and sometimes talk to you less?

1           A.    You're saying never would talk to me more and never talk to  
2 me less.

3           Q.    You had----

4           A.    The way it sounds is you're saying that he never talked to  
5 me.

6           Q.    No. What I'm asking is a simple question. Do you recall  
7 telling the defense that sometimes when you spoke with Manning, he  
8 would sometimes talk to you more and sometimes talk to you less?

9           A.    Only when I tried to get--I would ask him kind of open-  
10 ended questions, and he'd kind of open up, but for the most part, he  
11 wouldn't.

12          Q.    So is that a yes, that he would sometimes talk to you more  
13 and sometimes talk to you less?

14          A.    Yes.

15          Q.    PFC Manning was never disrespectful to you.

16          A.    No, sir, he was not.

17          Q.    He was never threatening to any of the staff.

18          A.    No, sir, he was not.

19          Q.    And for the first 6 months, until 10 December 2010, PFC  
20 Manning was only authorized 20 minutes of sunshine call, correct?

21          A.    Correct, sir.

22          Q.    And when PFC Manning was on sunshine call, he would be in  
23 full hand and leg restraints?

1 A. For that time, I don't--I don't really remember.

2 Q. Okay, I'll refresh your memory.

3 [The civilian defense counsel handed a document to the court  
4 reporter. The court reporter marked the document as AE 438A and  
5 handed it to the civilian defense counsel.]

6 CDC[MR. COOMBS]: I'm handing the witness what's been marked as-  
7 ---

8 [There was a pause in the proceedings while the civilian defense  
9 counsel handed another document to the court reporter to mark. The  
10 court reporter marked the document as AE 438B and handed it to the  
11 civilian defense counsel.]

12 CDC[MR. COOMBS]: I'm handing the witness what's been marked  
13 both as Appellate Exhibit 438A and 438B.

14 Q. Master Sergeant, if you would, just take a look at that for  
15 a moment.

16 A. [Did as directed.]

17 Q. All right, so, Master Sergeant, again, for the first 6  
18 months, until about 10 December, PFC Manning was only permitted 20  
19 minutes of sunshine call, correct?

20 A. Yes, sir.

21 Q. And when PFC Manning was on sunshine call, he would be in  
22 his full hand and leg restraints?

23 A. Yes, sir.

1 Q. And if he was indoors for his rec call because of inclement  
2 weather, his hand restraints would be kept on but the belt and the  
3 leg restraints would be taken off.

4 A. Correct.

5 Q. And because of that, being on a bike was acceptable, but in  
6 your opinion, being on the treadmill was not.

7 A. Correct.

8 Q. And that was because of a--of the hand restraints; is that  
9 correct?

10 A. For safety reasons, yes, sir.

11 Q. So if he fell, he wouldn't be able to brace himself as well  
12 as he could have without the handcuffs.

13 A. Correct, sir.

14 Q. Now did you--do you see where you discuss a difference  
15 between PFC Manning and two other detainees?

16 A. Example, example, example?

17 Q. Exactly.

18 A. Yes, sir.

19 Q. And you don't need to use the other detainees' names, but  
20 when he was in full restraints for those 6 months on sunshine call,  
21 is my understanding correct that a guard would have to walk with him  
22 to prevent him from falling?

23 A. Yes, sir.

1 Q. And in this outside yard is my understanding correct that  
2 this was a fenced in area with razor wire on top?

3 A. It was.

4 Q. And were there security cameras?

5 A. Not actually pointing to the entire portion of the cell,  
6 but, yes, there was.

7 Q. And how many guards would be required to be with PFC  
8 Manning when he was on the outside rec area?

9 A. Two.

10 Q. And what about the indoor rec area?

11 A. Two.

12 Q. Was the DBS required to be with the two guards?

13 A. Yes, sir; that's something that we did with all MAXs.

14 Q. So at a minimum you would have three staff members.

15 A. Yes, sir.

16 Q. Now you never sat on a C&A board, is that correct, as far  
17 as for PFC Manning?

18 A. I don't believe so, sir.

19 MJ: Can I interrupt you for just a minute?

20 CDC[MR. COOMBS]: Yes, ma'am.

21 MJ: What are the numbers of these two e-mails?

22 CDC[MR. COOMBS]: The 438--I'm sorry. Alpha----

23 MJ: Which one?



1 CDC[MR. COOMBS]: ---- is the multiple-page one, Your Honor.

2 MJ: Okay.

3 CDC[MR. COOMBS]: And 438B is the single page.

4 MJ: Thank you.

5 **CROSS-EXAMINATION CONTINUED**

6 **Questions by the civilian defense counsel [MR. COOMBS]:**

7 Q. So mainly it was if--from the records it looks like either  
8 Gunnery Sergeant Blenis, Gunnery Sergeant Fuller, Staff Sergeant  
9 Buck, or Staff Sergeant Jordan that sat on these boards; is that your  
10 memory?

11 A. Also I think another staff member was Staff Sergeant Lee.

12 Q. I'm sorry?

13 A. I think another member might have been Staff Sergeant Lee.

14 Q. Lee, okay.

15 And you said that PFC Manning's comment on his intake  
16 questionnaire "always planning, never acting" stuck real hard in the  
17 staff's mind; is that correct?

18 A. Yes, sir.

19 Q. And other than the time that PFC Manning appeared before  
20 the C&A board on 21 January 2011, do you know if he was ever asked  
21 about that statement?

22 A. I believe Gunnery Sergeant Blenis--Master Sergeant Blenis  
23 now--asked him about that statement.

1 Q. And why do you believe that?

2 A. We had talked about it.

3 Q. So from your memory, you would say that Gunnery Sergeant  
4 Blenis asked PFC Manning about this statement?

5 A. Correct.

6 Q. Would it surprise you if Gunnery Sergeant Blenis said he  
7 never asked him about this statement?

8 A. It would.

9 Q. From your memory, what do you recall Gunnery Sergeant  
10 Blenis telling you about this conversation?

11 A. It was a long time ago. I don't--I don't really recall. I  
12 just remember that he did address it with him, and at the end of the  
13 conversation, there was no reason to remove any concerns that he had  
14 about him making the statement.

15 Q. Do you recall when this conversation might have taken  
16 place?

17 A. Not long after he arrived, sir.

18 Q. So----

19 A. I would say probably within the first week.

20 Q. All right, so from your memory, it was addressed with PFC  
21 Manning during, maybe, the first week after he arrived?

22 A. Kind of speculate, but yes.

1 Q. And what do you recall Gunnery Sergeant Blenis telling you  
2 about PFC Manning's response?

3 A. It didn't make him any more comfortable with----

4 Q. Do you recall specifics, though?

5 A. No, sir; no specifics.

6 Q. And, I guess, other than this one week after conversation,  
7 was this statement ever addressed with PFC Manning again prior to 21  
8 January 2011, to your knowledge?

9 A. Not to my knowledge, sir.

10 Q. You had told the defense, though, that you thought the  
11 statement by PFC Manning was, quote, his devious way of letting us  
12 know that there was something going on in his head, end quote.

13 Do you recall saying that?

14 A. I don't recall saying it but apparently did. It sounds  
15 like something I would say.

16 Q. As you sit there on the stand today, do you believe that?

17 A. To an extent, I really don't feel any different that he  
18 was--he was planning something.

19 Q. And that made you uncomfortable about his thought process,  
20 correct?

21 A. Yes, sir.

22 Q. And you were involved in sometimes providing the results of  
23 the C&A board to the Brig OIC, correct?

1           A.    I just did it in conjunction with the board.  I didn't  
2 actually always present the board results; that was the board's  
3 responsibility.

4           Q.    But sometimes you did.

5           A.    Yes.

6           Q.    And as soon as this is marked, I'm going to show you an e-  
7 mail and I just want to ask you a few questions about it, okay?

8           A.    Yes, sir.

9   [The civilian defense counsel handed a document to the court  
10 reporter.  The court reporter marked the document as AE 438C and  
11 handed it to the civilian defense counsel.]

12          Q.    I'm handing you what's been marked Appellate Exhibit 438C  
13 and retrieving from you Appellate Exhibit 438A and B.

14          A.    Yes, sir.

15          Q.    Master Sergeant, this was an e-mail that you sent to Chief  
16 Barnes on 4 March 2011; is that correct?

17          A.    Yes, sir.

18          Q.    And you were talking about few--a couple other detainees  
19 that had been downgraded, correct?

20          A.    I do.

21          Q.    Now I just want you to use the first initial of the  
22 detainees if you're going to reference them, okay, with the  
23 exception, of course, of PFC Manning?

1 A. Okay.

2 Q. Now looking at Detainee India, I, the medical--it says the  
3 medical report for this detainee said that the POI status was not  
4 necessary, the risk of harm was low, and all categories were the  
5 lowest factors; do you see that?

6 A. Give me a minute [reviewing exhibit].

7 I do.

8 Q. Okay. And Detainee I was on MAX SR and then downgraded to  
9 MDI, correct?

10 A. [Reviewing exhibit.] Yes, sir, he was.

11 Q. Then you see Detainee K?

12 A. I do.

13 Q. And the same thing, the medical report said POI was not  
14 necessary, the risk of harm was low, and he was recommended to come  
15 off of MAX and POI.

16 A. [Reviewing exhibit.] I do.

17 Q. And he was, in fact, reduced down to MDI; you see that?

18 A. Yes, sir.

19 Q. Then PFC Manning had a similar report. His report said his  
20 anxiety disorder was in remission; his risk assessment is stable and  
21 low; and all categories circled were of the lowest factor.

22 A. I do.

1 Q. But unlike the other detainees, PFC Manning was not taken  
2 off of MAX and POI, correct?

3 A. Correct.

4 Q. And can you explain why, from your standpoint?

5 A. Well, first, I can't compare them to the other--I can't  
6 compare him to the other individuals because each individual is  
7 different, but just looking at what is written here, Detainee I has  
8 strong family ties; no previous diagnosis of depression; all  
9 categories were circled in the lowest factor. Detainee K, all his  
10 psychological stressors have been resolved. Well, just looking at  
11 both of those statements and knowing that Detainee Manning, all his  
12 stressors haven't been resolved. He was still pending a pretty  
13 lengthy court-martial, potential time at sentence, so it's definitely  
14 not the same thing.

15 Q. So Detainee I had a better family relationship and Detainee  
16 K didn't have as many stressors as PFC Manning?

17 A. Oh, that was just two things that I point out, yes.

18 Q. How about just any reason why at this point that PFC  
19 Manning was still on MAX and POI, from your perspective?

20 A. From my perspective, if I thought--if--I put myself in the  
21 brig CO's shoes. If I was the brig commander, I would have thought  
22 that PFC Manning was going to hurt himself or kill himself.

23 Q. And why is that?

1           A.    I was very uncomfortable with his lack of interaction with  
2 the staff; just kind of the way he removed himself from everything  
3 more----

4           Q.    Now was this--and I just want to make sure I----

5           A.    Yes.

6           Q.    ---- know your--understand your testimony. "Removed  
7 himself from everything," this apparently was persistent all the way  
8 through up--are you talking about from July 29th to January 18th or  
9 are you talking about January 18th afterwards?

10          A.    I would have to say more so after January 18th, because  
11 earlier I had stated we had all considered--and I don't remember the  
12 time frame but I know we all had the conversation, the brig staff,  
13 about what's the possibility of us recommending he come off of POI.

14          Q.    And we'll talk about that conversation.

15                Okay, well, let's change gears for a moment. You knew that  
16 weekly reports were being done on PFC Manning, correct?

17          A.    Yes.

18          Q.    And it was out of the norm to do these weekly reports.

19          A.    Definitely.

20          Q.    No other detainees that you were aware of were having  
21 weekly reports sent up the chain.

22          A.    No, sir.

23          Q.    And you knew that these were going to Colonel Oltman?

1           A.    I think the end result was Colonel Choike, the Base  
2 Commander.

3           Q.    But you knew initially they were going to Colonel Oltman.

4           A.    I believe so, yes.

5           Q.    And then they were going to Colonel Choike.

6           A.    Yes.

7           Q.    There was obviously a lot of media attention on Quantico or  
8 at Quantico----

9           A.    There was, sir.

10          Q.    ---- at this point, correct?

11          A.    Yes.

12          Q.    And the media was constantly asking questions.

13          A.    They were.

14          Q.    You had a lot of public affair officer questions that were  
15 being sent to the brig?

16          A.    Yeah, for the most part, the questions were routed through  
17 Public Affairs and Public Affairs would contact us.

18          Q.    Right; they would contact you in order to get you to weigh  
19 in on some of the answers that they should provide.

20          A.    Yes, sir.

21          Q.    And going back to what was 438A, that was basically a  
22 response to questions from the PAO, correct?

23          A.    Can I see it again, please?



1 Q. You----

2 A. I don't remember who it was to and from.

3 [The civilian defense counsel retrieved AE 438A from the court  
4 reporter.]

5 CDC[MR. COOMBS]: I'm handing the witness again 438A.

6 WIT: Thank you, sir.

7 CDC[MR. COOMBS]: It's not a problem.

8 [There was a pause in the proceedings while the witness reviewed AE  
9 438A.]

10 WIT: Yes, sir; that is correct.

11 CDC[MR. COOMBS]: I'm retrieving from the witness 438A and also  
12 438C.

13 [END OF PAGE]

1 CROSS-EXAMINATION CONTINUED

2 Questions by the civilian defense counsel [MR. COOMBS]:

3 Q. So when PAO would send questions, you or a member of the  
4 staff, if they could, would respond with an answer.

5 A. Yes, sir.

6 Q. Now you also had people calling the brig about PFC  
7 Manning's treatment?

8 A. Yes, sir; for the most part, those were more anonymous  
9 phone calls.

10 Q. But you were--the brig staff was receiving calls.

11 A. Yes, sir.

12 Q. And you had people writing letters to the brig about PFC  
13 Manning's treatment?

14 A. Yes, sir.

15 Q. You had earlier testified about at least one protest that  
16 you were aware of, but you were aware of other protests outside of  
17 the Quantico base, correct?

18 A. I only recall two, that one and another.

19 Q. And you testified on direct that you recall--you didn't  
20 recall the protest being, you know, that weekend before, but then you  
21 read something or saw something that refreshed your memory recently?

1           A.    Yes, when I had arrived here for the hearing, reviewing  
2 documents. I had never realized that the dates were in conjunction  
3 with each other. It just never occurred to me.

4           Q.    Okay, so it was based upon reviewing some document.

5           A.    Yes, sir.

6           Q.    Now these protests were disruptive to Quantico, correct?

7           A.    To the installation; I wouldn't say so much the brig.

8           Q.    And I just said to Quantico.

9           A.    Yes, sir.

10          Q.    They required extra manpower to deal with the protests?

11          A.    The Security Battalion did.

12          Q.    And the Security Battalion, that's Colonel Oltman, correct?

13          A.    Yes.

14          Q.    And you kept hearing from the base that you're not--they  
15 weren't used to having such a high profile detainee, correct?

16          A.    I did hear that, yes.

17          Q.    You also said to your staff in November that, "The subject  
18 Manning comes up more often than you think. It's on the Internet,  
19 it's on the news, and it's in our hands as long as he's confined in  
20 this brig".

21                Do you recall that?

22          A.    I do, sir.

1 Q. Now the Brig OIC, I want to talk about that for a moment.  
2 Because of the high profile nature of this, the Brig OIC would have,  
3 pretty much, weekly meetings with you and your staff, correct?

4 A. Nothing scheduled; just kind of spur of the moment.

5 Q. And these spur-of-the-moment meetings would be about PFC  
6 Manning.

7 A. I wouldn't say specifically just him. It was more so  
8 everything that was going on in the facility. Occasionally, there  
9 were ones that actually directly involved conversations about him.

10 Q. Do you recall some of these meetings being usually held at  
11 the guard mount?

12 A. There was a couple.

13 Q. And the Brig OIC wanted to talk to the staff and make sure  
14 the staff was okay.

15 A. Yes.

16 Q. Particularly in light of the media attention that was  
17 coming upon the staff, correct?

18 A. [Pause] Yeah, I suppose so.

19 Q. And you believed that Colonel Oltman and Colonel Choike  
20 increased their visits to the brig during PFC Manning's time there.

21 A. I wouldn't say that Colonel Oltman changed the way he  
22 visited at all. His visits were kind of on a regular basis. He used  
23 to come over prior to on a regular basis and then even after PFC

1 Manning left. I did see Colonel Choike come over on two occasions  
2 that he probably wouldn't normally have come over there.

3 Q. All right, and they would go through the brig with the Brig  
4 OIC when they came over.

5 A. Yes.

6 Q. And you knew that Lieutenant General Flynn had his eyes on  
7 the Manning situation as well, correct?

8 A. I suspected.

9 Q. You were copied on at least one e-mail with Lieutenant  
10 General Flynn also on the cc line, right?

11 A. Okay, I don't--I don't remember that, but yes.

12 Q. And so obviously at that point--well, I want to make sure  
13 your--I know your testimony. As you're sitting there on the stand,  
14 were you aware that Lieutenant General Flynn was involved in the  
15 case?

16 A. I am now. I mean, I'm not going to say I am now. It's  
17 been a long time; just probably simply forgot.

18 Q. Okay. Did Colonel Oltman ever talk to you about Lieutenant  
19 General Flynn?

20 A. No, sir.

21 Q. He never said to you that you shouldn't be pressured by the  
22 fact that a three-star general is watching?

23 A. I don't recall that.

1 Q. You don't recall Colonel Oltman coming down to the brig and  
2 telling the brig staff, you know, you're doing the right thing;  
3 continue what you're doing; don't be influenced by Lieutenant General  
4 Flynn or anyone else?

5 A. I remember him coming several times and telling all the  
6 staff that we were doing a good job. Also in conjunction with  
7 battalion formations, brig MPs doing a solid job; it was nothing out  
8 of the ordinary.

9 Q. But specifically him saying with regards to attention by  
10 Lieutenant General Flynn and others above him that you, the brig  
11 staff, should not be influenced by that; you don't recall him coming  
12 down and saying that?

13 A. No, sir, I do not.

14 CDC[MR. COOMBS]: Your Honor, before I continue, may we have a  
15 10- or a 15-minute comfort break?

16 MJ: All right, why don't we make it 15.

17 Court is in recess till 5 minutes to 11.

18 **[The Article 39(a) session recessed at 1040, 5 December 2012.]**

19 **[The Article 39(a) session was called to order at 1056, 5 December**  
20 **2012.]**

21 MJ: This Article 39(a) session is called to order. Let the  
22 record reflect all parties present when the court last recessed are  
23 again present in court. The witness is on the witness stand.

1 Mr. Coombs.

2 CROSS-EXAMINATION CONTINUED

3 Questions by the civilian defense counsel [MR. Coombs]:

4 Q. Master Sergeant Papakie, I remind you, you are still under  
5 oath.

6 A. Yes, sir.

7 Q. Now you had testified on direct about the anxiety attack  
8 PFC Manning had on 18 January 2011, correct?

9 A. Yes, sir.

10 Q. And I want to ask you a few questions about that. You  
11 recall filling out a incident report on that day, correct?

12 A. On 18 January, I don't recall.

13 Q. I'm handing you what's been marked Appellate Exhibit 438D.  
14 Does that look familiar to you?

15 A. It does, sir.

16 Q. And you filled this out, apparently, right on that day,  
17 correct?

18 A. Yes.

19 Q. So at the time when the events were the freshest in our  
20 mind.

21 A. Yes, sir.

1 Q. And I imagine just like anything that's filled out in  
2 writing you took care to put down in writing what you believed  
3 happened.

4 A. Yes.

5 Q. You didn't leave out any details?

6 A. Let me look over it real quick [reviewing exhibit].

7 Q. Well you certainly wouldn't leave out important details,  
8 correct?

9 A. I wouldn't think so, no.

10 Q. And that's because you know that somebody's going to be  
11 looking at this voluntary statement at a later date.

12 A. Yes, sir.

13 Q. Plus you actually put your name down on it and you sign it,  
14 correct?

15 A. I do; yes, sir.

16 Q. So let's talk about what happened on that day. In the  
17 incident report, you say that when you went to speak with PFC  
18 Manning, it was approximately, I guess, 1545 hours?

19 A. Yes, sir.

20 Q. And at that point he displayed confusion and was unable to  
21 complete a sentence; is that correct?

22 A. Correct.

23 Q. And you asked him to calm down.



1           A.    I did.

2           Q.    And PFC Manning told you that he did not understand why he  
3 was being analyzed by the guards.

4           A.    He did.

5           Q.    You then asked him for an example of how he felt he was  
6 being analyzed?

7           A.    I did.

8           Q.    And PFC Manning became frustrated and quickly moved towards  
9 the back wall, acting as if he was about to punch the wall.

10          A.    He did.

11          Q.    But he didn't punch the wall, correct?

12          A.    Correct.

13          Q.    And you instructed him to sit down on his rack?

14          A.    Yes.

15          Q.    And he did so.

16          A.    Yes.

17          Q.    And PFC Manning looked at you and clearly stated to you  
18 that he did not really understand why he was on POI.

19          A.    [Pause to review exhibit] Yes.

20          Q.    PFC Manning told you that he didn't understand the rules or  
21 the guards.

22          A.    [Pause to review exhibit] That's not in here but,  
23 basically, yes, sir.

1 Q. Actually take a look again.

2 A. [Pause to review exhibit] A----

3 Q. You see the--towards the bottom of the first paragraph,  
4 third sentence from the bottom.

5 A. Oh, I do; yes, sir.

6 Q. So he told you he didn't understand the rules or the  
7 guards?

8 A. Yes, sir.

9 Q. And he pointed at the guards' office mirror window, across  
10 from his cell, and stated, "I don't understand that."

11 A. Correct.

12 Q. As you began to explain what POI was and his status, that's  
13 when Chief Averhart arrived.

14 A. It was; yes, sir.

15 Q. I'm sorry?

16 A. Yes, it was, sir.

17 Q. And Chief Averhart asked PFC Manning what happened.

18 A. He did.

19 Q. And PFC Manning became upset again.

20 A. He did.

21 Q. He was having difficulty completing a sentence.

22 A. Yes.

1 Q. And you told him to calm down and just to speak with you  
2 as--or speak with Chief Averhart as he spoke with you.

3 A. I did.

4 Q. And that's when you stepped out for about 5 minutes.

5 A. Yes, sir.

6 Q. You don't know what happened during those 5 minutes.

7 A. No, sir.

8 Q. So you don't know what Chief Averhart said to PFC Manning.

9 A. I do not.

10 Q. You don't know how he said it to PFC Manning.

11 A. No, sir.

12 Q. When you returned, PFC Manning was still upset.

13 A. Correct.

14 Q. He still could not complete a sentence.

15 A. Yes.

16 Q. He was still stuttering.

17 A. He was.

18 Q. And he said he did not understand why he was being looked  
19 at all the time.

20 A. [Pause to review exhibit] Yes.

21 Q. And again he said he did not understand his POI status.

22 A. He did.

1 Q. And that's when Chief Averhart then addressed PFC Manning's  
2 question.

3 A. Yes.

4 Q. And PFC Manning apparently interrupted Chief Averhart by  
5 saying that it sounded to him that Chief Averhart was yelling at him.

6 A. He did.

7 Q. And Chief Averhart said he wasn't yelling.

8 A. Correct.

9 Q. He just said, "I have a deep voice."

10 A. Yes.

11 Q. Was his voice level from your memory, Chief Averhart's, the  
12 same voice level you addressed PFC Manning on that day?

13 A. No. I was probably a little bit more quiet.

14 Q. You were more quiet than Chief Averhart?

15 A. Yes, sir.

16 Q. So then you have Chief Averhart there talking to PFC  
17 Manning, correct?

18 A. Yes, sir.

19 Q. And Chief Averhart told PFC Manning that he was there to  
20 find out, quote, what was going on with him.

21 A. Correct.

22 Q. And PFC Manning became extremely frustrated and started  
23 fidgeting on his rack.

1           A.    Yes.

2           Q.    He covered his ears with his hands.

3           A.    He did.

4           Q.    He then pulled his hands back quickly and slapped both

5 palms of his hands against the side of his head.

6           A.    Yes.

7           Q.    And you specifically wrote "both palms," correct?

8           A.    I did write "palms."

9           Q.    Not "fists."

10          A.    Correct, sir.

11          Q.    And then PFC Manning yelled, "This is what I'm talking

12 about."

13          A.    Yes.

14          Q.    And when PFC Manning said, "This is what I'm talking

15 about," Chief Averhart stood up and directed you to place PFC Manning

16 on suicide watch.

17          A.    Yes.

18          Q.    PFC Manning then said, "Why are you doing this to me?"

19          A.    Yes.

20          Q.    He asked what did he do?

21          A.    [Pause to review exhibit].

22          Q.    Do you recall PFC Manning asked what did he do?

1           A.    He probably did.  It's--I don't see that in the statement,  
2 but I'm sure that he did.

3           Q.    And then that's when Chief Averhart left.

4           A.    Yes.

5           Q.    And that's when you started talking to PFC Manning.

6           A.    I did.

7           Q.    Now before we talk about what you spoke to PFC Manning  
8 about, I want to go back to what you testified on direct.

9           A.    Okay.

10          Q.    You had a kind of slightly different version of the events  
11 on direct.  You said he started hitting himself in the head; started  
12 punching himself with a closed fist.

13                Do you recall testifying on direct that----

14          A.    I do.

15          Q.    Do you see that anywhere in your voluntary statement?

16          A.    No.  I'm kind of just out of sequence; just didn't recall  
17 until I read it.

18          Q.    I'm sorry.  I don't understand.

19          A.    I didn't recall exactly the manner in what--which what he  
20 did until I read it.

21          Q.    So----

22          A.    If I wrote "palms," it was palms.

1 Q. Oh, okay. So as you're sitting there now, it's what is in  
2 your voluntary statement is----

3 A. Yes.

4 Q. ---- what actually happened.

5 A. Yes, sir.

6 Q. You also testified that he attempted to head-butt the cage.

7 A. Not the cage, sir, the bulkhead, the wall.

8 Q. Head-butt the bulk?

9 A. Bulkhead.

10 Q. Okay.

11 A. The wall.

12 Q. All right, and do you see that anywhere in your statement?

13 A. [Pause to review exhibit] I do not.

14 Q. And so just so I understand your testimony, is your  
15 testimony that that happened or now that you've seen your voluntary  
16 statement that that probably did not happen?

17 A. Probably did not.

18 Q. And then you said that he hit himself pretty hard to where  
19 he probably had some red marks.

20 A. Yes.

21 Q. Again, do you see that anywhere in your statement?

22 A. No.

## INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

**USE OF FORM** - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

**COPIES** - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

**ARRANGEMENT** - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.

2. Judge advocate's review pursuant to Article 64(a), if any.

3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.

4. Briefs of counsel submitted after trial, if any (Article 38(c)).

5. DD Form 494, "Court-Martial Data Sheet."

6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.

7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

a. Errata sheet, if any.

b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.

c. Record of proceedings in court, including Article 39(a) sessions, if any.

d. Authentication sheet, followed by certificate of correction, if any.

e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.

f. Exhibits admitted in evidence.

g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.

h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.